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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 GLEN E. FRIEDMAN,) Case No.
12 Plaintiff,) CV 10-00014 DDP (JCx)
13 v.) **SCHEDULING ORDER**
14 THIERRY GUETTA a/k/a MR.)
BRAINWASH,)
15)
16 Defendant.)

18 Pursuant to the Federal Rules of Civil Procedure
19 16(b), the Court issues the following Order:

20 Counsel must agree on the date for the disclosure of expert
21 witness reports pursuant to the Federal Rules of Civil Procedure
22 26(a)2. The agreed-upon disclosure date must precede the discovery
23 cut-off date such that all discovery, including expert depositions,
24 must be completed prior to the discovery cut-off date. All
25 discovery motions must be heard prior to the discovery cut-off
26 date. Counsel are ordered to abide by the dates as set forth in
27 the Rule 26 (f) Report.

28 | //

EXHIBIT A

EXHIBIT A PAGE 5

1

2

LAST DAY TO JOIN OTHER PARTIES
AND TO AMEND THE PLEADINGS 11-28-10

4

FACT DISCOVERY CUT-OFF 04-08-11

5

DEADLINE TO MAKE EXPERT DISCLOSURES 04-18-11

6

DEADLINE TO DISCLOSE REBUTTAL EXPERTS 05-09-11

7

EXPERT DISCOVERY CUT-OFF 05-31-11

8

LAST DAY TO FILE MOTIONS 06-20-11

9

FINAL PRE TRIAL CONFERENCE 07-25-11 at 11:00 a.m.

10

2-3 DAY JURY TRIAL 08-16-11 at 9:00 a.m.

11

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Dated: August 24, 2010


DEAN D. PREGERSON
United States District Judge

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1 Alan S. Gutman, SBN 128514
2 John Juenger, SBN 225201
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INDEX NO. 12
DUE DATE: _____
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6 Attorneys for Defendant and Counter-Claimant
7 THIERRY GUETTA a/k/a MR. BRAINWASH

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 GLEN E. FRIEDMAN,

) Case No. CV10-0014 DDP (JCx)

12 Plaintiff,

) DEFENDANT AND CROSS-CLAIMANT
13 vs.
14 THIERRY GUETTA a/k/a MR.
15 BRAINWASH, and DOES 1 through
16 10, inclusive,
17 Defendants.

18 AND RELATED COUNTER-CLAIM.

)
19 PROPOUNDING PARTY: Defendant and Cross-Claimant THIERRY GUETTA
20 RESPONDING PARTY: Plaintiff and Cross-Defendant GLEN E. FRIEDMAN
21 SET: ONE (1)
22 Pursuant to Federal Rules of Civil Procedure 33 and 36, Defendant and Cross-
23 Claimant Thierry Guetta requests that Plaintiff and Cross-Defendant Glen E. Friedman
24 answer under oath the following interrogatories within 30 days after service.

25 **DEFINITIONS**

26 Unless a contrary meaning appears in context, the following definitions are
27 applicable to these interrogatories:

28 1. The terms "YOU" and "YOUR" shall mean and refer to Plaintiff and Cross-

1 Defendant Glen E. Friedman and his agents, principals, partners, joint adventurers,
2 employees, independent contractors, servants, associates, attorneys, investigators,
3 representatives, affiliates and any other person or entity acting on his behalf or under his
4 direction, or on whose behalf or under whose direction he acts.

5 2. The terms "DOCUMENT" and "DOCUMENTS" are used in the broadest
6 permissible sense under the Federal Rules of Civil Procedure and shall mean and refer to,
7 without limitation, tangible things and all written, typewritten, recorded (including audio or
8 videotape or both), graphic, photographic (including negatives), facsimile transmissions,
9 or computerized materials in whatever form, including copies, drafts, and reproductions
10 thereof to which you have or have had access and every copy of such document which
11 contains any commentary or notation not appearing in the original.

12 3. The term "RELATE OR REFER TO" shall mean and refer to discussing,
13 mentioning, constituting, referencing, inferring, evidencing, or concerning.

14 4. The term "DESCRIPTION," when used with respect to a DOCUMENT, means
15 the DOCUMENT's date, title, the name of the person or entity that created the
16 DOCUMENT, the number of pages of the DOCUMENT and the Bates number of the
17 DOCUMENT.

18 5. Unless otherwise noted, when used with respect to a natural person or entity,
19 the term "IDENTIFY" means state the name, address, and telephone number of the person
20 or entity.

21 5. The term "SUBJECT PHOTOGRAPH" shall mean the photograph and/or the
22 image contained in the photograph whose copyright YOU contend Defendant and Cross-
23 Claimant Thierry Guetta infringed upon, which is the subject of the instant action.

INSTRUCTIONS

25 1. Each request and interrogatory is to be answered separately, fully and
26 specifically.

27 2. Propounding Party hereby requests, pursuant to Federal Rule of Civil
28 Procedure 26(e), that after responding to these requests and interrogatories Responding

- 1 Party supplement and/or correct any responses later learned to be incomplete or incorrect
- 2 immediately upon learning that a prior response was incomplete or incorrect.

3 3. All information requested herein is to be set forth if it is in the possession or
4 control of, or is available or accessible to Responding Party or any of his agents,
5 consultants, counsel, investigators, representatives or any other person or persons acting
6 for or on behalf of Responding Party.

7 4. If Responding Party cannot respond to any of the following requests or
8 interrogatories in full after exercising due diligence to secure the information to do so, then
9 Responding Party should respond to the extent possible and explain his inability to provide
10 a complete answer.

11 5. If any information called for by a request or interrogatory is withheld on the
12 basis of a claim of privilege, Responding Party should set forth the nature of the claimed
13 privilege and the nature of the information with respect to which it is claimed.

14 6. For each of these requests and interrogatories, singular forms of any noun
15 or pronoun shall be deemed to include the plural when the context makes this appropriate.
16 Masculine forms of any noun or pronoun shall be deemed to include the feminine or neuter
17 when the context makes this appropriate.

REQUESTS FOR ADMISSIONS AND INTERROGATORIES

19 | INTERROGATORY NO. 1:

When was the SUBJECT PHOTOGRAPH taken?

21 | RESPONSE:

23 | INTERROGATORY NO. 2:

24 When was the SUBJECT PHOTOGRAPH first publicly released?

25 | RESPONSE:

27 | INTERROGATORY NO. 3:

28 IDENTIFY the manner in which the SUBJECT PHOTOGRAPH was first publicly

1 released. For purposes of this interrogatory, IDENTIFY shall mean (a) the medium in
2 which the SUBJECT PHOTOGRAPH was first publicly release (e.g. in a book, magazine,
3 museum, etc.), (b) the title of medium in which the SUBJECT PHOTOGRAPH was first
4 released, (c) the location of the medium in which the SUBJECT PHOTOGRAPH was first
5 released, and (d) a DESCRIPTION of all DOCUMENTS that RELATE OR REFER TO the
6 medium in which the SUBJECT PHOTOGRAPH was first released.

7 **RESPONSE:**

8

9 **INTERROGATORY NO. 4:**

10 IDENTIFY each and every instance in which the SUBJECT PHOTOGRAPH was
11 publicly displayed. For purposes of this interrogatory, IDENTIFY shall mean (a) the date
12 upon which the SUBJECT PHOTOGRAPH was publicly displayed, (b) the location where
13 SUBJECT PHOTOGRAPH was publicly displayed, (c) the title of the venue or medium in
14 which the SUBJECT PHOTOGRAPH was publicly displayed, and (d) a DESCRIPTION of
15 all DOCUMENTS that RELATE OR REFER TO any instance in which the SUBJECT
16 PHOTOGRAPH was publicly displayed.

17 **RESPONSE:**

18

19 **INTERROGATORY NO. 5:**

20 IDENTIFY each and every instance in which the SUBJECT PHOTOGRAPH was
21 published. For purposes of this interrogatory, IDENTIFY shall mean (a) the date upon
22 which the SUBJECT PHOTOGRAPH was published, (b) the medium in which the
23 SUBJECT PHOTOGRAPH was published, (c) the title of medium in which the SUBJECT
24 PHOTOGRAPH was published, and (d) a DESCRIPTION of all DOCUMENTS that
25 RELATE OR REFER TO each and every instance in which the SUBJECT PHOTOGRAPH
26 was published.

27 **RESPONSE:**

28

1 **INTERROGATORY NO. 6:**

2 IDENTIFY each and every effort YOU have taken to generate monies with respect
3 to the SUBJECT photograph. For purposes of this interrogatory, IDENTIFY shall mean (a)
4 all advertising efforts YOU took with respect to the SUBJECT PHOTOGRAPH, (b) the
5 dates, parties and a description of all discussions YOU had with anyone regarding the
6 licensing or sale of the SUBJECT PHOTOGRAPH, (c) the dollar amount YOU suggested
7 for the sale, license or use of the SUBJECT PHOTOGRAPH, and (d) a DESCRIPTION of
8 all DOCUMENTS that RELATE OR REFER TO each and every effort YOU have taken to
9 generate monies with respect to the SUBJECT photograph.

10 **RESPONSE:**

11

12 **INTERROGATORY NO. 7:**

13 IDENTIFY each and every instance in which YOU received monies with respect to
14 the SUBJECT PHOTOGRAPH. For purposes of this interrogatory, IDENTIFY shall mean
15 (a) the date YOU received monies with respect to the SUBJECT PHOTOGRAPH, (b) the
16 amount of money YOU received with respect to the SUBJECT PHOTOGRAPH, (c) a
17 description of the type transaction for which YOU received any monies with respect to the
18 SUBJECT PHOTOGRAPH (e.g. licensing, lithograph sale, book sale, etc.), (d) the person
19 or entity from whom YOU received any monies with respect to the SUBJECT
20 PHOTOGRAPH, and (e) a DESCRIPTION of all DOCUMENTS that RELATE OR REFER
21 TO each and every instance in which YOU received monies with respect to the SUBJECT
22 PHOTOGRAPH.

23 **RESPONSE:**

24

25 **INTERROGATORY NO. 8:**

26 IDENTIFY each and every instance in which a lithograph and/or reproduction of the
27 SUBJECT PHOTOGRAPH was sold. For purposes of this interrogatory, IDENTIFY shall
28 mean, (a) the date any lithograph and/or reproduction of the SUBJECT PHOTOGRAPH

1 was sold, (b) the dollar amount for which the lithograph or reproduction of the SUBJECT
2 PHOTOGRAPH was sold, (c) the name, address and telephone number of each and every
3 person and/or entity that purchased a lithograph or reproduction of the SUBJECT
4 PHOTOGRAPH, and (d) a DESCRIPTION of all DOCUMENTS that RELATE OR REFER
5 TO each and every instance in which a lithograph and/or reproduction of the SUBJECT
6 PHOTOGRAPH was sold.

7 **RESPONSE:**

8

9 **INTERROGATORY NO. 9:**

10 State YOUR gross and net profits generated from the SUBJECT PHOTOGRAPH
11 and how those amounts were calculated.

12 **RESPONSE:**

13

14 **INTERROGATORY NO. 10:**

15 IDENTIFY all persons having knowledge concerning the facts and circumstances
16 relating to the creation, publication, marketing, advertising, licensing and/or sale of the
17 SUBJECT PHOTOGRAPH.

18 **RESPONSE:**

19

20 **REQUEST FOR ADMISSION 1:**

21 Admit Defendant and Cross-Claimant Thierry Guefta's use of the image whose
22 copyright YOU contend he infringed upon was fair use.

23 **RESPONSE:**

24

25 **INTERROGATORY NO. 11:**

26 If YOUR answer to Request for Admission No. 1 is anything other than an
27 unqualified admission, (a) state all facts that support YOUR answer, (b) provide a
28 DESCRIPTION of all DOCUMENTS that support or refute YOUR answer, and (c)

1 IDENTIFY all persons with knowledge that supports or refutes YOUR answer.

2 **RESPONSE:**

3

4 **REQUEST FOR ADMISSION NO. 2:**

5 Admit Defendant and Cross-Claimant Thierry Guetta's use of the image whose
6 copyright YOU contend he infringed upon was de minimis.

7 **RESPONSE:**

8

9 **INTERROGATORY NO. 12:**

10 If YOUR answer to Request for Admission No. 2 is anything other than an
11 unqualified admission, (a) state all facts that support YOUR answer, (b) provide a
12 DESCRIPTION of all DOCUMENTS that support or refute YOUR answer, and (c)
13 IDENTIFY all persons with knowledge that supports or refutes YOUR answer.

14 **RESPONSE:**

15

16 **REQUEST FOR ADMISSION NO. 3:**

17 Admit Defendant and Cross-Claimant Thierry Guetta's use of the image whose
18 copyright YOU contend he infringed upon was transformative.

19 **RESPONSE:**

20

21 **INTERROGATORY NO. 13:**

22 If YOUR answer to Request for Admission No. 3 is anything other than an
23 unqualified admission, (a) state all facts that support YOUR answer, (b) provide a
24 DESCRIPTION of all DOCUMENTS that support or refute YOUR answer, and (c)
25 IDENTIFY all persons with knowledge that supports or refutes YOUR answer.

26 **RESPONSE:**

27

28 **INTERROGATORY NO. 14:**

1 IDENTIFY each person and/or entity who participated in any way in preparation of
2 the responses to these interrogatories and state specifically with reference to interrogatory
3 numbers the area(s) of participation of each such person.

4 **RESPONSE:**

5

6 **INTERROGATORY NO. 15:**

7 On what date did YOU first learn of the alleged infringement by Defendant and
8 Cross-Claimant Thierry Guetta with respect to the SUBJECT PHOTOGRAPH?

9 **RESPONSE:**

10

11 **INTERROGATORY NO. 16:**

12 IDENTIFY each person that in any manner witnessed and/or participated in the
13 shooting and/or creation of the SUBJECT PHOTOGRAPH.

14 **RESPONSE:**

15

16 Dated: May 25, 2010

LAW OFFICES OF ADAN S. GUTMAN

17

By:

Alan S. Gutman
Attorneys for Defendant and Counter-Claimant
THIERRY GUETTA a/k/a MR. BRAINWASH

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not party to the within action; my business address is 9401 WILSHIRE BLVD., SUITE 575, BEVERLY HILLS, CA 90212-2918.

On May 25, 2010 I served the foregoing document described as DEFENDANT AND CROSS-CLAIMANT THIERRYGUETTA'S FIRST SET OF REQUESTS FOR ADMISSIONS AND INTERROGATORIES TO PLAINTIFF AND CROSS-DEFENDANT GLEN E. FRIEDMAN on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

DOUGLAS A. LINDE, ESQ.
ERICA ALLEN, ESQ.
THE LINDE LAW FIRM
9000 SUNSET BLVD., SUITE 1025
LOS ANGELES, CA 90069
TELEPHONE: 310-203-9333
FACSIMILE: 310-203-9233

BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Beverly Hills, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

E-MAIL: I transmitted the document to which this is attached via email to the email addresses listed above.

BY PERSONAL SERVICE: I caused the envelope to be delivered by hand to the offices of the addressee.

BY FACSIMILE TRANSMITTAL: I sent by facsimile the above document on at .m. to the facsimile machine number identified above.

BY FEDERAL EXPRESS OVERNIGHT DELIVERY: I caused the above document to be sent by Federal Express overnight delivery, fully prepaid, in accordance with Code of Civil Procedure § 1013(c).

Executed on May 25, 2010 at Beverly Hills, California.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.


CECIBEL ESCOBAR

1 DOUGLAS A. LINDE, ESQ. (SBN 217584)(dal@lindelaw.net)
2 ERICA ALLEN, ESQ. (SBN 234922)(ela@lindelaw.net)
3 THE LINDE LAW FIRM
4 9000 Sunset Boulevard, Ste. 1025
5 Los Angeles, California 90069
6 Telephone (310) 203-9333
7 Fax (310) 203-9233

5 Attorneys for Plaintiffs,
6 GLEN E. FRIEDMAN

GUTMAN LAW
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DUE DATE: _____

CALENDARED _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 GLEN E. FRIEDMAN) Case No. CV10-0014 DDP (JCx)
12 Plaintiffs,) Honorable Dean D. Pregerson
13) Complaint Filed: January 4, 2010
14 v.)
15 THIERRY GUETTA a/k/a MR.) PLAINTIFF'S RESPONSE TO
16 BRAINWASH; and DOES 1 though) REQUEST FOR ADMISSIONS AND
17 10, inclusive,) INTERROGATORIES, SET ONE
18 Defendants.)
19

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

PROPOUNDING PARTY: THIERRY GUETTA

RESPONDING PARTY: GLEN E. FRIEDMAN

SET NUMBER: ONE

1 Plaintiff, GLEN E. FRIEDMAN herewith provides responses to Defendant,
2 THIERRY GUETTA'S, Interrogatories, Set Number One, as follows:

3 **PRELIMINARY STATEMENT**

4 These responses are made solely for the purpose of this action. Each answer is
5 subject to all objections as to competence, relevance, materiality, propriety and
6 admissibility, and any and all other objections on grounds that would require the
7 exclusion of any statement contained herein if any Interrogatories were asked of, or any
8 statement contained herein were made by, a witness present and testifying in Court, all
9 of which objections and grounds are reserved and may be interposed at the time of trial.
10

11 Except for explicit facts admitted herein, no incidental or implied admissions are
12 intended hereby. The fact that Plaintiff has answered or objected to any Interrogatory
13 or any part thereof should not be taken as an admission that they accept or admit the
14 existence of any facts set forth or assumed by such interrogatory or that such answer or
15 objection constitutes admissible evidence. The fact that Plaintiff has not answered part
16 of all of any Interrogatory is not intended and shall not be construed to be a waiver by
17 them of all or any part of any object to any Interrogatory propounded by Defendant.

18 To the extent any or all of the Interrogatories call for information which
19 constitutes information or material prepared in anticipation of litigation or for trial or
20 information or material covered by the Work Product Doctrine or which constitutes
21 information which is privileged by virtue of the attorney-client privilege, this Claimant
22 objects to each and every such Interrogatory and thus will not supply or render any
23 information or material protected from discovery by virtue of the Work Product
24 Doctrine or attorney-client privilege.

25 Plaintiff has not completed the investigation of the facts relating to this case, has not
26 completed discovery of this action, and has not completed preparation for trial. The
27 following answers are given without prejudice to the production of subsequent
28 discovered facts or evidence, or the presentation of facts or theories resulting from

1 subsequently discovered evidence, reevaluation of the existing evidence or evaluation
2 of existing evidence in light of newly-discovered evidence.

3

4

RESPONSES

5

6 **INTERROGATORY NO.1:**

7 When was the SUBJECT PHOTOGRAPH taken?

8

9 **RESPONSE:**

10

Between November 1985- November 1986.

11

INTERROGATORY NO.2:

12

13

When was the SUBJECT PHOTOGRAPH first publicly released?

14

RESPONSE:

15

16

Objection: This Interrogatory is vague and does not seek information relevant to any
claim or defense in this matter. Without waiving this objection, Plaintiff responds as
follows: 1994.

19

20

INTERROGATORY NO.3:

21

22

IDENTIFY the manner in which the SUBJECT PHOTOGRAPH was first publicly
released. For purposes of this interrogatory, IDENTIFY shall mean (a) the medium in
which the SUBJECT PHOTOGRAPH was first publicly release (e.g. in a book,
magazine, museum, etc.), (b) the title of medium in which the SUBJECT
PHOTOGRAPH was first released, (c) the location of the medium in which the
SUBJECT PHOTOGRAPH was first released, and (d) a DESCRIPTION of all

1 DOCUMENTS that RELATE OR REFER TO the medium in which the SUBJECT
2 PHOTOGRAPH was first released.
3

4 **RESPONSE:**

5 Objection. This Interrogatory is vague, ambiguous, overbroad, unduly burdensome,
6 contains unrelated subparts, and does not seek information relevant to any claim or
7 defense in this matter. Subject to and without waiving this objection, Plaintiff responds:
8

9 The SUBJECT PHOTOGRAPH was first publicly released in the book, *Fuck You*
10
11 *Heroes; Glen E. Friedman Photographs 1976-1991*, Burning Flags Press, 1994.

12 **INTERROGATORY NO.4:**

13 IDENTIFY each and every instance in which the SUBJECT PHOTOGRAPH was
14 publicly displayed. For purposes of this interrogatory, IDENTIFY shall mean (a) the
15 date upon which the SUBJECT PHOTOGRAPH was publicly displayed, (b) the
16 location where SUBJECT PHOTOGRAPH was publicly displayed, (c) the title of the
17 venue or medium in which the SUBJECT PHOTOGRAPH was publicly displayed, and
18 (d) a DESCRIPTION of all DOCUMENTS that RELATE OR REFER TO any instance
19 in which the SUBJECT PHOTOGRAPH was publicly displayed.
20
21

22 **RESPONSE:**

23 Objection. Extremely overbroad and unduly burdensome in that the Interrogatory calls
24 for information that is not relevant, nor likely to lead to the discovery of admissible
25 evidence and contains unrelated subparts. Subject to and without waiving this
26
27
28

1 objection; Plaintiff responds: The SUBJECT IMAGE was widely displayed all over the
2 world from 1994-2010 in publicity and promotional materials for the group Run DMC
3 as well as in publicity and promotional materials for Plaintiff's book *Fuck You Heroes*;
4 *Glen E. Friedman Photographs 1976-1991*, and in exhibitions of Plaintiff's work.
5
6 **INTERROGATORY NO.5:**
7

8 IDENTIFY each and every instance in which the SUBJECT PHOTOGRAPH was
9 published. For purposes of this interrogatory, IDENTIFY shall mean (a) the date upon
10 which the SUBJECT PHOTOGRAPH was published, (b) the medium in which the
11 SUBJECT PHOTOGRAPH was published, (c) the title of medium in which the
12 SUBJECT PHOTOGRAPH was published, and (d) a DESCRIPTION of all
13 DOCUMENTS that RELATE OR REFER TO each and every instance in which the
14 SUBJECT PHOTOGRAPH was published.
15
16

17 **RESPONSE:**
18

19 Objection. Extremely overbroad and unduly burdensome in that this Interrogatory calls
20 for production of information that is not relevant, nor likely to lead to the discovery of
21 admissible evidence and contains unrelated subparts. Subject to and without waiving
22 this objection; Plaintiff responds: The SUBJECT IMAGE was widely displayed all
23 over the world from 1994-2010 in publicity and promotional materials for the group
24 Run DMC, in Plaintiff's book *Fuck You Heroes*; *Glen E. Friedman Photographs 1976-*
25 *1991*, wherever said book was sold, as well as in publicity and promotional materials
26
27
28

1 for Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*, and
2 in exhibitions of Plaintiff's work.
3
4

5 **INTERROGATORY NO.6:**

6 IDENTIFY each and every effort YOU have taken to generate monies with respect to
7 the SUBJECT photograph. For purposes of this interrogatory, IDENTIFY shall mean
8
9 (a) all advertising efforts YOU took with respect to the SUBJECT PHOTOGRAPH, (b)
10 the dates, parties and a description of all discussions YOU had with anyone regarding
11 the licensing or sale of the SUBJECT PHOTOGRAPH, (c) the dollar amount YOU
12 suggested for the sale, license or use of the SUBJECT PHOTOGRAPH, and (d) a
13 DESCRIPTION of all DOCUMENTS that RELATE OR REFER TO each and every
14 effort YOU have taken to generate monies with respect to the SUBJECT photograph.
15
16

17 **RESPONSE:**

18 Objection. Vague and ambiguous so as to be unintelligible and contains unrelated
19 subparts. Moreover this Interrogatory seeks information that is protected by Plaintiff's
20 right to privacy.
21
22

23 **INTERROGATORY NO.7:**

24 IDENTIFY each and every instance in which YOU received monies with respect to the
25 SUBJECT PHOTOGRAPH. For purposes of this interrogatory, IDENTIFY shall mean
26
27 (a) the date YOU received monies with respect to the SUBJECT PHOTOGRAPH, (b)
28

1 the amount of money YOU received with respect to the SUBJECT PHOTOGRAPH, (c)
2 a description of the type transaction for which YOU received any monies with respect
3 to the SUBJECT PHOTOGRAPH (e.g. licensing, lithograph sale, book sale, etc.), (d)
4 the person or entity from whom YOU received any monies with respect to the
5 SUBJECT PHOTOGRAPH, and (e) a DESCRIPTION of all DOCUMENTS that
6 RELATE OR REFER TO each and every instance in which YOU received monies with
7 respect to the SUBJECT PHOTOGRAPH.

10
11 **RESPONSE:**

12 Objection. Vague and ambiguous so as to be unintelligible and contains unrelated
13 subparts. Moreover this Interrogatory seeks information that is protected by Plaintiff's
14 right to privacy.
15

16 **INTERROGATORY NO.8:**
17

18 IDENTIFY each and every instance in which a lithograph and/or reproduction of the
19 SUBJECT PHOTOGRAPH was sold. For purposes of this interrogatory, IDENTIFY
20 shall mean, (a) the date any lithograph and/or reproduction of the SUBJECT
21 PHOTOGRAPH was sold, (b) the dollar amount for which the lithograph or
22 reproduction of the SUBJECT PHOTOGRAPH was sold, (c) the name, address and
23 telephone number of each and every person and/or entity that purchased a lithograph or
24 reproduction of the SUBJECT PHOTOGRAPH, and (d) a DESCRIPTION of all
25
26
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1 DOCUMENTS that RELATE OR REFER TO each and every instance in which a
2 lithograph and/or reproduction of the SUBJECT PHOTOGRAPH was sold.
3

4 **RESPONSE:**

5 Objection. Vague and ambiguous so as to be unintelligible, and contains unrelated
6 subparts. Moreover this Interrogatory seeks information that is protected by Plaintiff's
7 right to privacy.

8
9 **INTERROGATORY NO.9:**

10 State YOUR gross and net profits generated from the SUBJECT PHOTOGRAPH and
11 how those amounts were calculated.

12
13 **RESPONSE:**

14 Objection. Vague and ambiguous so as to be unintelligible. Moreover this
15 Interrogatory seeks information that is protected by Plaintiff's right to privacy.

16
17 **INTERROGATORY NO. 10:**

18 IDENTIFY all persons having knowledge concerning the facts and circumstances
19 relating to the creation, publication, marketing, advertising, licensing and/or sale of the
20 SUBJECT PHOTOGRAPH.

21
22 **RESPONSE:**

23 Plaintiff identifies Glen E. Friedman who should only be contacted through Plaintiff's
24 counsel, as well as the subjects of the photograph, whose addresses are unknown.

25
26 **REQUEST FOR ADMISSION 1:**

1 Admit Defendant and Cross-Claimant Thierry Guetta's use of the image whose
2 copyright YOU contend he infringed upon was fair use.
3

4 **RESPONSE:**

5 Deny.

6 **INTERROGATORY NO.11:**
7

8 If YOUR answer to Request for Admission No. 1 is anything other than an unqualified
9 admission, (a) state all facts that support YOUR answer, (b) provide a DESCRIPTION
10 of all DOCUMENTS that support or refute YOUR answer, and (c) IDENTIFY all
11 persons with knowledge that supports or refutes YOUR answer.
12

13 **RESPONSE:**
14

15 Objection. This Interrogatory is improper. *Safeco of America v. Rawstron*, 181 F.R.D.
16 441, 445 (CD CA 1998); *Miller v. Holzmann*, 240 FRD 1, 3 (D. DC 2006).
17

18 **REQUEST FOR ADMISSION NO.2:**

19 Admit Defendant and Cross-Claimant Thierry Guetta's use of the image whose
20 copyright YOU contend he infringed upon was de minimis.
21

22 **RESPONSE:**

23 Deny.

24
25 **INTERROGATORY NO. 12:**

26 If YOUR answer to Request for Admission No. 2 is anything other than an unqualified
27 admission, (a) state all facts that support YOUR answer, (b) provide a DESCRIPTION
28

1 of all DOCUMENTS that support or refute YOUR answer, and (c) IDENTIFY all
2 persons with knowledge that supports or refutes YOUR answer.
3

4 **RESPONSE:**

5 Objection. This Interrogatory is improper. *Safeco of America v. Rawstron*, 181 F.R.D.
6 441, 445 (CD CA 1998); *Miller v. Holtzmann*, 240 FRD 1, 3 (D. DC 2006).

7 **REQUEST FOR ADMISSION NO.3:**

8 Admit Defendant and Cross-Claimant Thierry Guetta's use of the image whose
9 copyright YOU contend he infringed upon was transformative.
10

11 **RESPONSE:**

12 Deny.
13

14 **INTERROGATORY NO. 13:**

15 If YOUR answer to Request for Admission NO.3 is anything other than an unqualified
16 admission, (a) state all facts that support YOUR answer, (b) provide a DESCRIPTION
17 of all DOCUMENTS that support or refute YOUR answer, and (c) IDENTIFY all
18 persons with knowledge that supports or refutes YOUR answer.
19

20 **RESPONSE:**

21 Objection. This Interrogatory is improper. *Safeco of America v. Rawstron*, 181 F.R.D.
22 441, 445 (CD CA 1998); *Miller v. Holtzmann*, 240 FRD 1, 3 (D. DC 2006).

23 **INTERROGATORY NO. 14:**

24

25

1 IDENTIFY each person and/or entity who participated in any way in preparation of the
2 responses to these interrogatories and state specifically with reference to interrogatory
3 numbers the area(s) of participation of each such person.

5 **RESPONSE:**

6 Plaintiff identifies Plaintiff and Plaintiff's counsel.
7

8 **INTERROGATORY NO. 15:**

9 On what date did YOU first learn of the alleged infringement by Defendant and Cross-
10
11 Claimant Thierry Guetta with respect to the SUBJECT PHOTOGRAPH?

12 **RESPONSE:**

13 In 2009, exact date unknown.
14

15 **INTERROGATORY NO. 16:**

16 IDENTIFY each person that in any manner witnessed and/or participated in the
17
18 shooting and/or creation of the SUBJECT PHOTOGRAPH.

19 ///

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1 **RESPONSE:**

2 Objection. Vague, ambiguous, overbroad and unduly burdensome. Subject to and
3 without waiving this objection, Plaintiff responds: Plaintiff identifies Glen E. Friedman
4 who should only be contacted through Plaintiff's counsel and members of the group
5 Run DMC, whose present addresses are unknown.

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7 Dated: July 16, 2010

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THE LINDE LAW FIRM

By:

Douglas A. Linde

Erica L. Allen

Attorneys for Plaintiff

GLEN E. FRIEDMAN

PROOF OF SERVICE
(C.C.P. 1013A, 2015.5)
STATE OF CALIFORNIA

I am employed in the county of Los Angeles, State of California.
I am over the age of eighteen years and not a party to the within
action; my business address is 9000 Sunset Boulevard, Ste. 1025, Los
Angeles, CA 90069.

On July 16, 2010 I served **RESPONSES TO INTERROGATORIES AND REQUESTS FOR ADMISSIONS, SET ONE** on the interested parties to this action by the following means:

x by placing ____ the original ____ a true copy enclosed in
a sealed envelope(s) addressed as stated on the attached Service
List.

X BY MAIL. I deposited such envelope(s) in the mail in Los Angeles, California. The envelope(s) was mailed with postage thereon fully prepaid.

13 BY PERSONAL SERVICE. I caused to be delivered such envelope(s) by hand to the addressee(s) stated on the attached Service List.

15 BY FACSIMILE. I sent by facsimile a copy of the above-described document to the interested parties identified on the attached Service List.

17 BY E-MAIL. I sent by electronic mail a .pdf copy of the
fully executed above-described document to the interested parties
identified on the attached Service List.

Executed on July 16, 2010 in Los Angeles, California.

20 I declare under penalty of perjury under the laws of the State
of California that the above is true and correct.

Daniel Linde

Name

Signature

SERVICE LIST

Alan S. Gutman
John Juenger
LAW OFFICES OF ALAN S. GUTMAN
9401 Wilshire Blvd., Ste. 575
Beverly Hills, CA 90212

juenger@gutmanlaw.com

LAW OFFICES OF
ALAN S. GUTMAN
9401 WILSHIRE BOULEVARD, SUITE 575
BEVERLY HILLS, CALIFORNIA 90212-2918
TELEPHONE: 310-385-0700
FACSIMILE: 310-385-0710

www.gutmanlaw.com

August 19, 2010

Via Facsimile and U.S. Mail

Douglas A. Linde, Esq.
Erica Gonzales, Esq.
THE LINDE LAW FIRM
9000 Sunset Blvd., Suite 1025
Los Angeles, CA 90069

Re: Glen E. Friedman vs. Thierry Guetta aka Mr. Brainwash,
USDC, Central District of California, Case No. CV10-0014 DDP (JCx)

Dear Doug and Erica:

This letter concerns Plaintiff and Counter-Defendant's responses to Defendant and Counter-Claimant's First Set of Requests for Admissions and Interrogatories. In the event that we are unable to resolve these issues informally, we will move for an order compelling further responses and for an award of attorney's fees in preparing the same. Please consider this letter a request for a conference pursuant to L.R. 37-1.

Interrogatory No. 6 asks Plaintiff to identify all efforts he made to generate monies with respect to the photograph of Run-D.M.C. at issue in this action. Plaintiff objects on the grounds that the interrogatory is "[v]ague and ambiguous so as to be unintelligible and contains unrelated subparts." The interrogatory does not contain any subparts. Rather, it provides a comprehensive definition of IDENTIFY so as to ensure that the interrogatory is not vague and ambiguous. Moreover, to the extent the definitions for IDENTIFY may be considered subparts, they are "logically or factually subsumed within and necessarily related to the primary question." Safeco of America v. Rawstron, 181 F.R.D. 441, 445 (C.D. CA 1998). Each definition for IDENTIFY specifically relies on the primary question as to what efforts Plaintiff took to generate monies from the photograph. Plaintiff further objects on the grounds that the interrogatory seeks information protected by Plaintiff's right to privacy. While the request may seek information that is afforded privacy protection, Plaintiff has put the information at issue by filing his lawsuit. The information is not only relevant to damages, it is relevant to determining whether Defendant's use of the photograph was fair. 17 U.S.C. § 107(4). For the foregoing reasons, Plaintiff must answer this interrogatory.

For the same reasons articulated above, Interrogatory Nos. 7 through 9, which ask Plaintiff to identify every instance in which he received monies with respect to the photograph, for

EXHIBIT D

EXHIBIT D PAGE 30

GUTMAN LAW

Doug Linde, Esq.
Erica Gonzales, Esq.
The Linde Law Firm
August 19, 2010
Page 2

each instance a lithograph or reproduction of the photograph was sold and Plaintiff's gross and net profits from the photograph, respectively, must be answered.

Plaintiff has not provided substantive responses to Interrogatory Nos. 11 through 13, each of which ask Plaintiff to identify all facts, documents and persons with knowledge supporting Plaintiff's response to three corresponding requests for admissions to the extent that Plaintiff's responses to those requests for admissions are anything other than an unqualified admission. The only objection raised is that the interrogatory is "improper" and reference is made to Safeco, *supra*, and Miller v. Holtzmann, 240 FRD 1, 3 (D. DC 2006). Apparently, Friedman has refused to answer these interrogatories on the grounds that the Defendant has exceeded the 25 interrogatory limit set forth in Fed.R.Civ.P. 33(a)(1). This argument fails for several reasons. First of all, as explained with regards to Interrogatory No. 6 above, none of the interrogatories contain distinct subparts, only comprehensive definitions of IDENTIFY are provided. The definitions are not "discrete and separate questions." Safeco of America v. Rawstron, 181 F.R.D. 441, 445 (C.D. CA 1998). Moreover, Plaintiff is required to respond to 25 interrogatories. Even under the most charitable view Plaintiff has not responded to more than 16 interrogatories, including responses that are entirely objections. Accordingly, the objections to Interrogatory Nos. 11 through 13 are not well taken and substantive responses must be provided.

We look forward to resolving this matter amicably. The foregoing is without prejudice to any and all rights, remedies, claims, actions a defenses, all of which are expressly reserved.

Very truly yours,
LAW OFFICES OF ALAN S. GUTMAN
By: _____
John Juenger

JJ:tmf
GUETTA\LETTER 19 AUG 2010 LINDE

1 **DOUGLAS A. LINDE, ESQ. (SBN 217584)(dal@lindelaw.net)**
2 **ERICA ALLEN, ESQ. (SBN 234922)(ela@lindelaw.net)**
3 **THE LINDE LAW FIRM**
4 **9000 Sunset Boulevard, Ste. 1025**
5 **Los Angeles, California 90069**
6 **Telephone (310) 203-9333**
7 **Fax (310) 203-9233**

8 Attorneys for Plaintiffs,
9 **GLEN E. FRIEDMAN**

10 GUTMAN LAW
11 FILE COPY
12 INDEX NO. 27
13 DUE DATE: _____
14 CALENDARED

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

17 GLEN E. FRIEDMAN) Case No. CV10-0014 DDP (JCx)
18 Plaintiffs,) Honorable Dean D. Pregerson
19) Complaint Filed: January 4, 2010
20 v.)
21 THIERRY GUETTA a/k/a MR.) **PLAINTIFF'S SUPPLEMENTAL**
22 BRAINWASH; and DOES 1 though) **RESPONSES TO REQUEST FOR**
23 10, inclusive,) **ADMISSIONS AND**
24) **INTERROGATORIES, SET ONE**
25 Defendants.)
26)

27 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

28 **PROPOUNDING PARTY: THIERRY GUETTA**

29 **RESPONDING PARTY: GLEN E. FRIEDMAN**

30 **SET NUMBER: ONE**

1 Plaintiff, GLEN E. FRIEDMAN herewith provides supplemental responses to
2 Defendant, THIERRY GUETTA'S, Interrogatories and Requests for Admission, Set
3 Number One, as follows:

4 **PRELIMINARY STATEMENT**

5 These responses are made solely for the purpose of this action. Each answer is
6 subject to all objections as to competence, relevance, materiality, propriety and
7 admissibility, and any and all other objections on grounds that would require the
8 exclusion of any statement contained herein if any Interrogatories were asked of, or any
9 statement contained herein were made by, a witness present and testifying in Court, all
10 of which objections and grounds are reserved and may be interposed at the time of trial.
11

12 Except for explicit facts admitted herein, no incidental or implied admissions are
13 intended hereby. The fact that Plaintiff has answered or objected to any Interrogatory
14 or any part thereof should not be taken as an admission that they accept or admit the
15 existence of any facts set forth or assumed by such interrogatory or that such answer or
16 objection constitutes admissible evidence. The fact that Plaintiff has not answered part
17 of all of any Interrogatory is not intended and shall not be construed to be a waiver by
18 them of all or any part of any object to any Interrogatory propounded by Defendant.

19 To the extent any or all of the Interrogatories call for information which
20 constitutes information or material prepared in anticipation of litigation or for trial or
21 information or material covered by the Work Product Doctrine or which constitutes
22 information which is privileged by virtue of the attorney-client privilege, this Claimant
23 objects to each and every such Interrogatory and thus will not supply or render any
24 information or material protected from discovery by virtue of the Work Product
25 Doctrine or attorney-client privilege.

26 Plaintiff has not completed the investigation of the facts relating to this case, has not
27 completed discovery of this action, and has not completed preparation for trial. The
28

1 following answers are given without prejudice to the production of subsequent
2 discovered facts or evidence, or the presentation of facts or theories resulting from
3 subsequently discovered evidence, reevaluation of the existing evidence or evaluation
4 of existing evidence in light of newly-discovered evidence.

5
6 **RESPONSES**
7

8 **INTERROGATORY NO.6:**

9 IDENTIFY each and every effort YOU have taken to generate monies with respect to
10 the SUBJECT photograph. For purposes of this interrogatory, IDENTIFY shall mean
11 (a) all advertising efforts YOU took with respect to the SUBJECT PHOTOGRAPH, (b)
12 the dates, parties and a description of all discussions YOU had with anyone regarding
13 the licensing or sale of the SUBJECT PHOTOGRAPH, (c) the dollar amount YOU
14 suggested for the sale, license or use of the SUBJECT PHOTOGRAPH, and (d) a
15 DESCRIPTION of all DOCUMENTS that RELATE OR REFER TO each and every
16 effort YOU have taken to generate monies with respect to the SUBJECT photograph.

17
18 **SUPPLEMENTAL RESPONSE:**
19

20 Plaintiff incorporates by reference all prior objections and responses and provides the
21 following supplemental response: The SUBJECT IMAGE was widely displayed all
22 over the world from 1994-2010 in publicity and promotional materials for the group
23 Run DMC as well as in publicity and promotional materials for Plaintiff's book *Fuck*
24
25 *You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions of
26
27
28

1 Plaintiff's work. The SUBJECT PHOTOGRAPH appeared in the book, *Fuck You*
2 *Heroes; Glen E. Friedman Photographs 1976-1991*, Burning Flags Press, 1994.
3
4 Plaintiff received monies for sales of this book, however, it is impossible to determine
5 which monies are directly attributable to the SUBJECT PHOTOGRAPH.

6 **INTERROGATORY NO.7:**

7 IDENTIFY each and every instance in which YOU received monies with respect to the
8 SUBJECT PHOTOGRAPH. For purposes of this interrogatory, IDENTIFY shall mean
9
10 (a) the date YOU received monies with respect to the SUBJECT PHOTOGRAPH, (b)
11 the amount of money YOU received with respect to the SUBJECT PHOTOGRAPH, (c)
12 a description of the type transaction for which YOU received any monies with respect
13 to the SUBJECT PHOTOGRAPH (e.g. licensing, lithograph sale, book sale, etc.), (d)
14 the person or entity from whom YOU received any monies with respect to the
15 SUBJECT PHOTOGRAPH, and (e) a DESCRIPTION of all DOCUMENTS that
16 RELATE OR REFER TO each and every instance in which YOU received monies with
17 respect to the SUBJECT PHOTOGRAPH.

21
22 **SUPPLEMENTAL RESPONSE:**

23 Plaintiff incorporates by reference all prior objections and responses and provides the
24 following supplemental response: The SUBJECT IMAGE was widely displayed all
25 over the world from 1994-2010 in publicity and promotional materials for the group
26 Run DMC as well as in publicity and promotional materials for Plaintiff's book *Fuck*
27
28

1 *You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions of
2 Plaintiff's work. The SUBJECT PHOTOGRAPH appeared in the book, *Fuck You*
3
4 *Heroes; Glen E. Friedman Photographs 1976-1991*, Burning Flags Press, 1994.
5 Plaintiff received monies for sales of this book, however, it is impossible to determine
6 which monies are directly attributable to the SUBJECT PHOTOGRAPH.
7

8 **INTERROGATORY NO.9:**

9 State YOUR gross and net profits generated from the SUBJECT PHOTOGRAPH and
10 how those amounts were calculated.

12 **SUPPLEMENTAL RESPONSE:**

13 Plaintiff incorporates by reference all prior objections and responses and provides the
14 following supplemental response: The SUBJECT IMAGE was widely displayed all
15 over the world from 1994-2010 in publicity and promotional materials for the group
16 Run DMC as well as in publicity and promotional materials for Plaintiff's book *Fuck*
17

19 *You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions of

20 Plaintiff's work. The SUBJECT PHOTOGRAPH appeared in the book, *Fuck You*
21
22 *Heroes; Glen E. Friedman Photographs 1976-1991*, Burning Flags Press, 1994.

23 Plaintiff received monies for sales of this book, however, it is impossible to determine
24 which monies are directly attributable to the SUBJECT PHOTOGRAPH.
25

26 ///

27 ///

28

1 **INTERROGATORY NO.11:**

2 If YOUR answer to Request for Admission No. 1 is anything other than an unqualified
3 admission, (a) state all facts that support YOUR answer, (b) provide a DESCRIPTION
4 of all DOCUMENTS that support or refute YOUR answer, and (c) IDENTIFY all
5 persons with knowledge that supports or refutes YOUR answer.
6
7

8 **SUPPLEMENTAL RESPONSE:**

9 Plaintiff incorporates by reference all prior objections and responses and provides the
10 following supplemental response:
11

12 (a) Plaintiff's entire copyrighted image was used as the basis of the infringing
13 works. The infringing images were created and used for commercial purposes for
14 which Defendant obtained a direct economic benefit.
15

16 (b) Plaintiff's original image and each of the infringing images created by
17 Defendant.
18

19 (c) Plaintiff, GLEN E. FRIEDMAN and Defendant, THIERRY GUETTA

20 **INTERROGATORY NO. 12:**

21 If YOUR answer to Request for Admission No. 2 is anything other than an unqualified
22 admission, (a) state all facts that support YOUR answer, (b) provide a DESCRIPTION
23 of all DOCUMENTS that support or refute YOUR answer, and (c) IDENTIFY all
24 persons with knowledge that supports or refutes YOUR answer.
25
26

1 **SUPPLEMENTAL RESPONSE:**

2 Plaintiff incorporates by reference all prior objections and responses and provides the
3
4 following supplemental response:

5 (a) Plaintiff's entire copyrighted image was used as the basis of the infringing
6 works.

8 (b) Plaintiff's original image and each of the infringing images created by
9 Defendant.

11 (c) Plaintiff, GLEN E. FRIEDMAN and Defendant, THIERRY GUETTA

12 **INTERROGATORY NO. 13:**

13 If YOUR answer to Request for Admission NO.3 is anything other than an unqualified
14 admission, (a) state all facts that support YOUR answer, (b) provide a DESCRIPTION
15 of all DOCUMENTS that support or refute YOUR answer, and (c) IDENTIFY all
16 persons with knowledge that supports or refutes YOUR answer.

19 **SUPPLEMENTAL RESPONSE:**

20 Plaintiff incorporates by reference all prior objections and responses and provides the
21
22 following supplemental response:

23 (a) Plaintiff's entire copyrighted image was used as the basis of the infringing
24 works. Plaintiff's photograph is the heart of the infringing images; they are merely
25 retransmitted in a different medium. Without the photograph, Defendant would not
26 have a work.

1 (b) Plaintiff's original image and each of the infringing images created by
2 Defendant.
3

4 (c) Plaintiff, GLEN E. FRIEDMAN and Defendant, THIERRY GUETTA
5

6 Dated: September 14, 2010

THE LINDE LAW FIRM

7 By: DAL
8

9 Douglas A. Linde
10 Erica L. Allen
11 Attorneys for Plaintiff
12 GLEN E. FRIEDMAN
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PROOF OF SERVICE
(FRCP 5)

I am employed in the county of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 9000 Sunset Boulevard, Ste. 1025, Los Angeles, CA 90069.

On September 14, 2010 I served PLAINTIFF'S SUPPLEMENTAL RESPONSES TO INTERROGATORIES AND REQUEST FOR ADMISSIONS, SET ONE on the interested parties to this action by the following means:

8 X by placing _____ the original _____ a true copy enclosed in
9 a sealed envelope(s) addressed as stated on the attached Service
List.

10 x BY MAIL. I deposited such envelope(s) in the mail in Los
11 Angeles, California. The envelope(s) was mailed with postage
thereon fully prepaid.

12 BY PERSONAL SERVICE. I caused to be delivered such
envelope(s) by hand to the addressee(s) stated on the attached
13 Service List.

14 _____ BY FACSIMILE. I sent by facsimile a copy of the above-
15 described document to the interested parties identified on the
attached Service List.

16 _____ BY E-MAIL. I sent by electronic mail a .pdf copy of the
17 fully executed above-described document to the interested parties
identified on the attached Service List.

18 Executed on September 14, 2010 in Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

21 Jeffrey T. Allen

22 | Name _____

Jeff
Signature

SERVICE LIST

Alan S. Gutman
John Juenger
LAW OFFICES OF ALAN S. GUTMAN
9401 Wilshire Blvd., Ste. 575
Beverly Hills, CA 90212

1 Alan S. Gutman, SBN 128514
2 John Juenger, SBN 225201
2 LAW OFFICES OF ALAN S. GUTMAN
3 9401 Wilshire Boulevard, Suite 575
3 Beverly Hills, CA 90212-2918
4 Telephone: 310-385-0700
4 Facsimile: 310-385-0710
5 email: alangutman@gutmanlaw.com
5 jiuenger@gutmanlaw.com

6 Attorneys for Defendant and Counter-Claimant
7 THIERRY GUETTA a/k/a MR. BRAINWASH

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 GLEN E. FRIEDMAN,) Case No. CV10-0014 DDP (JCx)

12 Plaintiff,

13 vs.

14 THIERRY GUETTA a/k/a MR.
15 BRAINWASH, and DOES 1 through
10, inclusive,

16 Defendants.

17 AND RELATED COUNTER-CLAIM.

)
DEFENDANT AND COUNTER-
CLAIMANT THIERRY GUETTA'S FIRST
SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS TO
PLAINTIFF AND COUNTER-
DEFENDANT GLEN E. FRIEDMAN

19 PROPOUNDING PARTY: Defendant and Counter-Claimant THIERRY GUETTA

20 RESPONDING PARTY: Plaintiff and Counter-Defendant GLEN E. FRIEDMAN

21 SET: ONE (1)

22 Pursuant to Federal Rule of Civil Procedure 34, Defendant and Counter-Claimant
23 Thierry Guetta requests that Plaintiff and Counter-Defendant Glen E. Friedman produce
24 the documents specified below within thirty (30) days of the date of service hereof at the
25 Law Offices of Alan S. Gutman, 9401 Wilshire Boulevard, Suite 575, Beverly Hills, CA
26 90212.

27 **DEFINITIONS AND INSTRUCTIONS**

28 1. Whenever reference is made to a person, it includes any and all of such

1 person's principals, employees, agents, attorneys, consultants and other representatives.

2 2. When production of any document in Responding Party's possession is
3 requested, such request includes documents subject to the Responding Party's
4 possession, custody or control. In the event that Responding Party is able to provide only
5 part of the document(s) called for in any particular Request for Production, provide all
6 document(s) that Responding Party is able to provide and state the reason, if any, for the
7 inability to provide the remainder.

8 3. The terms "DOCUMENT" and "DOCUMENTS" shall mean and refer to all
9 materials within the scope of Fed.R.Civ.P. 34 including but not limited to: all writings and
10 recordings, including the originals and all non-identical copies, whether different from the
11 original by reason of any notation made on such copies or otherwise (including but without
12 limitation to, email and attachments, correspondence, memoranda, notes, diaries, minutes,
13 statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, tags,
14 labels, invoices, brochures, periodicals, telegrams, receipts, returns, summaries,
15 pamphlets, books, interoffice and intraoffice communications, offers, notations of any sort
16 of conversations, working papers, applications, permits, file wrappers, indices, telephone
17 calls, meetings or printouts, teletypes, telefax, invoices, worksheets, and all drafts,
18 alterations, modifications, changes and amendments of any of the foregoing), graphic or
19 aural representations of any kind (including without limitation, photographs, charts,
20 microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys),
21 and electronic, for the latest version mechanical, magnetic, optical or electric records or
22 representations of any kind (including without limitation, computer files and programs,
23 tapes, cassettes, discs, recordings), including metadata.

24 4. If any document is withheld from production under a claim of privilege or
25 other exemption from discovery, state the title and nature of the document, and furnish a
26 list signed by the attorney of record giving the following information with respect to each
27 document withheld:

28 (a) the name and title of the author and/or sender and the name and title

of the recipient;

- (b) the date of the document's origination;
 - (c) the name of each person or persons (other than stenographic or clerical assistants) participating in the preparation of the document);
 - (d) the name and position, if any, of each person to whom the contents of the documents have been communicated by copy, exhibition, reading or substantial summarization;
 - (e) a statement of the specific basis on which privilege is claimed and whether or not the subject matter or the contents of the document is limited to legal advice or information provided for the purpose of securing legal advice; and
 - (f) the identity and position, if any, of the person or persons supplying the attorney signing the list with the information requested in subparagraphs above.

15 5. Every Request for Production herein shall be deemed a continuing Request
16 for Production, and Responding Party is to supplement its answers promptly if and when
17 Responding Party obtains responsive documents which add to or are in any way
18 inconsistent with Responding Party's

19 6. Any word written in the singular herein shall be construed as plural or vice
20 versa when necessary to facilitate the response to any request.

21 7. "And" as well as "or" shall be construed disjunctively or conjunctively as
22 necessary in order to bring within the scope of the request all responses which otherwise
23 might be construed to be outside its scope.

24 8. The term "RELATE OR REFER TO" shall mean and refer to discussing,
25 mentioning, constituting, referencing, inferring, evidencing, or concerning.

26 9. The terms "YOU" and "YOUR" shall mean and refer to Plaintiff Glen E.
27 Friedman and his agents, principals, partners, joint adventurers, employees, independent
28 contractors, servants, associates, attorneys, investigators, representatives, affiliates and

1 any other person or entity acting on his behalf or under his direction, or on whose behalf
2 or under whose direction he acts.

3 10. The term "SUBJECT PHOTOGRAPH" shall mean the photograph and/or the
4 image contained in the photograph whose copyright YOU contend Defendant and Counter-
5 Claimant Thierry Guetta infringed upon, which is the subject of the instant action.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All DOCUMENTS that support or refute YOUR claim for copyright infringement.
 2. All DOCUMENTS that RELATE OR REFER TO YOUR attempts to register any copyright for the SUBJECT PHOTOGRAPH.
 3. All DOCUMENTS that RELATE OR REFER TO any copyright YOU contend Defendant and Counter-Claimant Thierry Guetta infringed upon.
 4. A true and correct copy of the SUBJECT PHOTOGRAPH.
 5. All DOCUMENTS that RELATE OR REFER TO YOUR attempts to register the copyright for the book "F*** YOU HEROES."
 6. All DOCUMENTS that RELATE OR REFER TO the copyright for the book "F*** YOU HEROES."
 7. The book "F*** YOU HEROES."
 8. All DOCUMENTS supporting or refuting YOUR contention that YOUR are "a photographer and artist who has gained worldwide recognition for [YOUR] original and groundbreaking photographs of musical visionaries and other cultural icons" as alleged in ¶ 11 of your Complaint.
 9. All DOCUMENTS supporting or refuting YOUR contention that Defendant and Counter-Claimant Thierry Guetta "engaged in acts of affirmative and widespread self-promotion of the copies directed to the public at large by distributing said copies (and accompanying written materials) with a false and misleading designation of creation, ownership and origin, and falsely representing that the Subject image was [Defendant and

1 Counter-Claimant Thierry Guetta]’s own” as alleged in ¶ 15 of YOUR Complaint.

2 10. All DOCUMENTS supporting or refuting YOUR contention that Defendant
3 and Counter-Claimant Thierry Guetta “engaged in acts of affirmative and widespread self-
4 promotion of the copies directed to the public at large by publicly claiming ownership rights
5 in and to the derivative works based on the Subject Image that belong solely to Plaintiff”
6 as alleged in ¶ 16 of YOUR Complaint.

7 11. All DOCUMENTS supporting or refuting YOUR contention that Defendant
8 and Counter-Claimant Thierry Guetta’s acts “have caused [YOU] to suffer, and to continue
9 to suffer, substantial damage to its [sic] business in the form of diversion of trade, loss of
10 income and profits, and a dilution of the value of its [sic] rights” as alleged in ¶ 23 of YOUR
11 Complaint.

12 12. All DOCUMENTS supporting or refuting YOUR contention that Defendant
13 and Counter-Claimant Thierry Guetta’s has “obtained direct and indirect profits [he] would
14 not otherwise have realized but for [his] infringement of Plaintiff’s copyrighted Subject
15 Image” as alleged in ¶ 23 of YOUR Complaint.

16 13. All DOCUMENTS that support or refute YOUR denial that Defendant and
17 Counter-Claimant Thierry Guetta’s use of the SUBJECT PHOTOGRAPH was fair use.

18 14. All DOCUMENTS that support or refute YOUR denial that Defendant and
19 Counter-Claimant Thierry Guetta’s use of the SUBJECT PHOTOGRAPH was de minimis.

20 15. All DOCUMENTS that support or refute YOUR denial that Defendant and
21 Counter-Claimant Thierry Guetta’s use of the SUBJECT PHOTOGRAPH was
22 transformative.

23 16. All DOCUMENTS that discuss, RELATE OR REFER TO the SUBJECT
24 PHOTOGRAPH.

25 17. All DOCUMENTS that evidence that the SUBJECT PHOTOGRAPH was a
26 well known image prior to Defendant and Counter-Claimant Thierry Guetta’s use of the
27 image.

28 18. All DOCUMENTS that RELATE OR REFER TO any monies you have ever

1 received in connection with the SUBJECT PHOTOGRAPH..

2 19. All DOCUMENTS that RELATE OR REFER TO any damages you have
3 suffered in any manner by any conduct Defendant and Counter-Claimant has engaged in.

4 20. All DOCUMENTS that RELATE OR REFER TO the manner in which the
5 SUBJECT PHOTOGRAPH was first publicly released. .

6 21. All DOCUMENTS that RELATE OR REFER TO each and every instance in
7 which the SUBJECT PHOTOGRAPH was publicly displayed.

8 22. All DOCUMENTS that RELATE OR REFER TO each and every instance in
9 which the SUBJECT PHOTOGRAPH was published.

10 23. All DOCUMENTS that constitute a publishing of the SUBJECT
11 PHOTOGRAPH.

12 24. All DOCUMENTS that constitute RELATE OR REFER TO each and every
13 publishing of the SUBJECT PHOTOGRAPH.

14 25. All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken
15 to generate monies with respect to the SUBJECT photograph.

16 26. All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken
17 to license the SUBJECT PHOTOGRAPH.

18 27. All DOCUMENTS that memorialize, RELATE OR REFER TO any discussions
19 YOU had in an effort to license the SUBJECT PHOTOGRAPH.

20 28. All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken
21 to sell any lithographs and/or reproductions the SUBJECT PHOTOGRAPH.

22 29. All DOCUMENTS that memorialize, RELATE OR REFER TO any discussions
23 YOU had in an effort to sell any lithographs and/or reproductions of the SUBJECT
24 PHOTOGRAPH.

25 30. All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken
26 to sell any products that incorporate the SUBJECT PHOTOGRAPH including, but not
27 limited to, any books, apparel and/or other merchandise.

28 31. All DOCUMENTS that memorialize, RELATE OR REFER TO any discussions

1 YOU had in an effort to sell any products that incorporate the SUBJECT PHOTOGRAPH
2 including, but not limited to, any books, apparel and/or other merchandise.

3 32. All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU
4 received for licensing the SUBJECT PHOTOGRAPH.

5 33. All DOCUMENTS that constitute, evidence, RELATE OR REFER TO any
6 licensing agreement that in any way RELATES OR REFERS TO the SUBJECT
7 PHOTOGRAPH.

8 34. All DOCUMENTS that constitute, evidence, RELATE OR REFER TO the
9 termination of any licensing agreement that in any way RELATES OR REFERS TO the
10 SUBJECT PHOTOGRAPH.

11 35. All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU
12 received for selling any lithographs or reproductions of the SUBJECT PHOTOGRAPH.

13 36. All DOCUMENTS that RELATE OR REFER TO each and every instance in
14 which a lithograph and/or reproduction of the SUBJECT PHOTOGRAPH was sold.

15 37. All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU
16 received for the sale of any products that incorporate the SUBJECT PHOTOGRAPH
17 including, but not limited to, any books, apparel and/or other merchandise.

18 38. All DOCUMENTS that RELATE OR REFER TO each and every sale of any
19 products that incorporate the SUBJECT PHOTOGRAPH including, but not limited to, any
20 books, apparel and/or other merchandise.

21 39. All DOCUMENTS that RELATE OR REFER TO each and every instance in
22 which YOU received monies with respect to the SUBJECT PHOTOGRAPH.

23 40. All DOCUMENTS that RELATE OR REFER TO the inclusion or omission of
24 copyright notice with respect to the SUBJECT PHOTOGRAPH in any medium.

25 41. All DOCUMENTS filed in or referring to lawsuits, countersuits, arbitrations or
26 other legal proceedings brought by or against YOU for infringement of the SUBJECT
27 PHOTOGRAPH.

28 42. All DOCUMENTS that evidence, RELATE OR REFER TO the date on which

1 YOU first learned of the alleged infringement by Defendant and Counter-Claimant Thierry
2 Guetta with respect to the SUBJECT PHOTOGRAPH.

3 43. All DOCUMENTS that RELATE OR REFER TO any Investigations,
4 surveillance, "buys," "stings," searches and other means or methods by which YOU
5 determined Defendant and Counter-Claimant Thierry Guetta had infringed upon YOUR
6 copyright with respect to the SUBJECT PHOTOGRAPH.

7 44. All DOCUMENTS that RELATE OR REFER TO any infringement related to
8 the SUBJECT PHOTOGRAPH not perpetrated by Defendant and Counter-Claimant Thierry
9 Guetta.

10 45. All press releases, transcripts of press conferences and other DOCUMENTS
11 containing, or referring to, statements made by plaintiffs concerning this suit.

12 46. All DOCUMENTS that containing, RELATE OR REFER TO communications
13 between YOU and any publicist or public relations company concerning this suit.

14 47. All DOCUMENTS evidencing YOUR suspension or disqualification from
15 conducting business in any jurisdiction.

16 48. All DOCUMENTS that evidence, RELATE OR REFER TO YOUR conviction
17 of a felony.

18 49. All DOCUMENTS that RELATE OR REFER TO YOUR communications with
19 any customer or prospective customer of Defendant and Counter-Claimant Thierry Guetta
20 concerning this suit or the alleged copyright Infringement.

22 | Dated: July 28, 2010

~~LAW OFFICES OF ALAN S. GUTMAN~~

By:

John Juenger
Attorneys for Defendant and Counter-Claimant
THIERRY GUETTA a/k/a MR. BRAINWASH

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not party to the within action; my business address is 9401 WILSHIRE BLVD., SUITE 575, BEVERLY HILLS, CA 90212-2918.

On July 28, 2010 I served the foregoing document described as DEFENDANT AND COUNTER-CLAIMANT THIERRY GUETTA'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF AND COUNTER-DEFENDANT GLEN E. FRIEDMAN on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

DOUGLAS A. LINDE, ESQ.
ERICA ALLEN, ESQ.
THE LINDE LAW FIRM
9000 SUNSET BLVD., SUITE 1025
LOS ANGELES, CA 90069
TELEPHONE: 310-203-9333
FACSIMILE: 310-203-9233

[XX] BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Beverly Hills, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

E-MAIL: I transmitted the document to which this is attached via email to the email addresses listed above.

BY PERSONAL SERVICE: I caused the envelope to be delivered by hand to the offices of the addressee.

BY FACSIMILE TRANSMITTAL: I sent by facsimile the above document on at .m. to the facsimile machine number identified above.

BY FEDERAL EXPRESS OVERNIGHT DELIVERY: I caused the above document to be sent by Federal Express overnight delivery, fully prepaid, in accordance with Code of Civil Procedure § 1013(c).

Executed on July 28, 2010 at Beverly Hills, California.

[XX] (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.


CECIBEL ESCOBAR

1 DOUGLAS A. LINDE, ESQ. (SBN 217584)(dal@lindelaw.net)
2 ERICA ALLEN, ESO. (SBN 234922)(ela@lindelaw.net)
3 THE LINDE LAW FIRM
4 9000 Sunset Boulevard, Ste. 1025
Los Angeles, California 90069
Telephone (310) 203-9333
Fax (310) 203-9233

GUTMAN LAW
FILE COPY
INDEX NO. 28
DUE DATE: _____
CALENDARDED

5 Attorneys for Plaintiffs,
6 GLEN E. FRIEDMAN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 GLEN E. FRIEDMAN) Case No. CV10-0014 DDP (JCx)
12 Plaintiffs,) Honorable Dean D. Pregerson
13) Complaint Filed: January 4, 2010
14 v.)
15 THIERRY GUETTA a/k/a MR.) **PLAINTIFF'S RESPONSE TO**
16 BRAINWASH; and DOES 1 through) **REQUEST FOR PRODUCTION, SET**
17 10, inclusive,) **ONE**
18 Defendants.)
19 _____)

20 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

22 PROPOUNDING PARTY: THIERRY GUETTA

RESPONDING PARTY: GLEN E. FRIEDMAN

25 SET NUMBER: ONE

1 Plaintiff, GLEN E. FRIEDMAN herewith provides responses to Defendant,
2 THIERRY GUETTA'S, Request for Production of Documents, Set Number One, as
3 follows:

4 **PRELIMINARY STATEMENT**

5 These responses are made solely for the purpose of this action. Each answer is
6 subject to all objections as to competence, relevance, materiality, propriety and
7 admissibility, and any and all other objections on grounds that would require the
8 exclusion of any statement contained herein if any Request were asked of, or any
9 statement contained herein were made by, a witness present and testifying in Court, all
10 of which objections and grounds are reserved and may be interposed at the time of trial.
11

12 Except for explicit facts admitted herein, no incidental or implied admissions are
13 intended hereby. The fact that Plaintiff has answered or objected to any Request or any
14 part thereof should not be taken as an admission that they accept or admit the existence
15 of any facts set forth or assumed by such Request or that such answer or objection
16 constitutes admissible evidence. The fact that Plaintiff has not answered part of all of
17 any Request is not intended and shall not be construed to be a waiver by them of all or
18 any part of any object to any Request propounded by Defendant.

19 To the extent any or all of the Requests call for information which constitutes
20 information or material prepared in anticipation of litigation or for trial or information
21 or material covered by the Work Product Doctrine or which constitutes information
22 which is privileged by virtue of the attorney-client privilege, this Claimant objects to
23 each and every such Request and thus will not supply or render any information or
24 material protected from discovery by virtue of the Work Product Doctrine or attorney-
25 client privilege.

26 Plaintiff has not completed the investigation of the facts relating to this case, has
27 not completed discovery of this action, and has not completed preparation for trial. The
28 following answers are given without prejudice to the production of subsequent

1 discovered facts or evidence, or the presentation of facts or theories resulting from
2 subsequently discovered evidence, reevaluation of the existing evidence or evaluation
3 of existing evidence in light of newly-discovered evidence.

4

5

RESPONSES

6

REQUEST FOR PRODUCTION NO. 1:

7 All DOCUMENTS that support or refute YOUR claim for copyright infringement.

8

RESPONSE:

9

10 Objection. Overbroad and unduly burdensome in that documents responsive to this
11 Request have been previously provided and are already in possession of propounding
12 party. Subject to and without waiving this objection, Plaintiff responds: Plaintiff
13 identifies the documents identified and produced in Plaintiff's Initial Disclosures
14 Pursuant to Rule 26(a)(1). Investigation and discovery continue, therefore Plaintiff
15 reserves the right to supplement this discovery in the future.

16

REQUEST FOR PRODUCTION NO. 2:

17

18 All DOCUMENTS that RELATE OR REFER TO YOUR attempts to register any
19 copyright for the SUBJECT PHOTOGRAPH.

20

RESPONSE:

21

22 Objection. Overbroad and unduly burdensome in that documents responsive to this
23 Request have been previously provided and are already in possession of propounding
24 party. Subject to and without waiving this objection, Plaintiff responds: Plaintiff
25

26

27

28

1 identifies Plaintiff Copyright Registration VA 1-221-001 photocopy attached to
2 Plaintiff's Initial Disclosures as Exhibit 1.
3

4 **REQUEST FOR PRODUCTION NO. 3.**

5 All DOCUMENTS that RELATE OR REFER TO any copyright YOU contend
6 Defendant and Counter-Claimant Thierry Guetta infringed upon.
7

8 **RESPONSE:**

9 Objection. Overbroad and unduly burdensome in that documents responsive to this
10 Request have been previously provided and are already in possession of propounding
11 party. Subject to and without waiving this objection, Plaintiff responds: Plaintiff
12 identifies Plaintiff Copyright Registration VA 1-221-001 photocopy attached to
13 Plaintiff's Initial Disclosures as Exhibit 1.
14

16 **REQUEST FOR PRODUCTION NO. 4.**

17 A true and correct copy of the SUBJECT PHOTOGRAPH.
18

19 **RESPONSE:**

20 Objection. Overbroad and unduly burdensome in that documents responsive to this
21 Request have been previously provided and are already in possession of propounding
22 party. Subject to and without waiving this objection, Plaintiff responds: Plaintiff
23 identifies photocopy of Plaintiff's original photo attached to Plaintiff's Initial
24 Disclosures as Exhibit 2.
25

26
27
28

1 **REQUEST FOR PRODUCTION NO. 5.**

2 All DOCUMENTS that RELATE OR REFER TO YOUR attempts to register
3
4 the copyright for the book "F*** YOU HEROES."

5 **RESPONSE:**

6 Objection. Overbroad and unduly burdensome in that documents responsive to this
7
8 Request have been previously provided and are already in possession of propounding
9 party. Subject to and without waiving this objection, Plaintiff responds: Plaintiff
10 identifies Plaintiff Copyright Registration VA 1-221-001 photocopy attached to
11 Plaintiff's Initial Disclosures as Exhibit 1.

13 **REQUEST FOR PRODUCTION NO. 6.**

15 All DOCUMENTS that RELATE OR REFER TO the copyright for the book
16 "F*** YOU HEROES."

18 **RESPONSE:**

19 Objection. Overbroad and unduly burdensome in that documents responsive to this
20 Request have been previously provided and are already in possession of propounding
21 party. Subject to and without waiving this objection, Plaintiff responds: Plaintiff
22 identifies Plaintiff Copyright Registration VA 1-221-001 photocopy attached to
23 Plaintiff's Initial Disclosures as Exhibit 1.

26 **REQUEST FOR PRODUCTION NO. 7.**

27 The book "F*** YOU HEROES."

1 **RESPONSE:**

2 Objection. Unduly burdensome in that documents responsive to this Request are
3 equally available to propounding party. Subject to and without waiving this objection,
4 Plaintiff responds: Plaintiff's book *F*** You Heroes*, can be found on the internet at
5 <http://www.amazon.com/Fuck-You-Heroes-Photographs-1976-1991/dp/0964191601>.
6
7

8 **REQUEST FOR PRODUCTION NO. 8:**

9 All DOCUMENTS supporting or refuting YOUR contention that YOUR are "a
10 photographer and artist who has gained worldwide recognition for [YOUR] original and
11 groundbreaking photographs of musical visionaries and other cultural icons" as alleged
12 in paragraph 11 of your Complaint.
13
14

15 **RESPONSE:**

16 Objection. Vague, ambiguous overbroad and unduly burdensome in that this Request
17 calls for production of some documents that are not relevant, reasonably calculated to
18 lead to the discovery of admissible evidence, encompassing every photograph taken by
19 Plaintiff and mention of Plaintiff in the media, ever. Subject to and without waiving
20 this objection; Plaintiff responds: Plaintiff identifies Plaintiff's books, which can be
21 purchased on the internet:
22
23

24 *My Rules*, Photozine, self published and distributed, 1982
25

26 *F*** You Heroes*, Glen E. Friedman photographs 1976-1991, Burning Flags
27 Press, 1994,
28

1 *Fuck You Too, The Extras + More Scrapbook - Music and Skating thru '04*, Glen
2 E. Friedman, ConSafos press 1996, updated 2005,
3

4 *The Idealist*, Glen E. Friedman - In My Eyes - 25 Years (1976–2001), Burning
5 Flags Press, 1998, updated 2004

6 *Dogtown-The Legend of the Z-Boys*, C.R. Stecyk III & Glen E. Friedman,
7
8 Burning Flags Press, 2000

9 *Recognize*, Glen E. Friedman, Burning Flags Press, 2005

10 *Keep Your Eyes Open*, Glen E. Friedman, Burning Flags Press, 2007

11 **REQUEST FOR PRODUCTION NO. 9.**

12 All DOCUMENTS supporting or refuting YOUR contention that Defendant and
13
14 Counter-Claimant Thierry Guetta "engaged in acts of affirmative and widespread self
15 promotion of the copies directed to the public at large by distributing said copies (and
16 accompanying written materials) with a false and misleading designation of creation,
17 ownership and origin, and falsely representing that the Subject image was [Defendant
18 and Counter-Claimant Thierry Guetta]'s own" as alleged in paragraph15 of YOUR
19
20 Complaint.

21 **RESPONSE:**

22 Objection. Unduly burdensome in that documents responsive to this Request are
23
24 already in possession of propounding party, if not moreso. Subject to and without
25
26 waiving this objection, Plaintiff responds: Plaintiff identifies Copyright Registration
27
28

1 VA 1-221-001 attached to Plaintiff's Initial Disclosures as Exhibit 1, Plaintiff's original
2 photograph of RUN DMC photocopy attached to Plaintiff's Initial Disclosures as
3 Exhibit 2 and all images created by Defendant bearing the SUBJECT PHOTOGRAPH
4 or any portion thereof.

5 **REQUEST FOR PRODUCTION NO. 10.**

6 All DOCUMENTS supporting or refuting YOUR contention that Defendant and
7 Counter-Claimant Thierry Guetta "engaged in acts of affirmative and widespread self
8 promotion of the copies directed to the public at large by publicly claiming ownership
9 rights in and to the derivative works based on the Subject Image that belong solely to
10 Plaintiff as alleged in paragraph 16 of YOUR Complaint.

11 **RESPONSE:**

12 Objection. Unduly burdensome in that documents responsive to this Request are
13 already in possession of propounding party, if not moreso. Subject to and without
14 waiving this objection, Plaintiff responds: Plaintiff identifies Copyright Registration
15 VA 1-221-001 attached to Plaintiff's Initial Disclosures as Exhibit 1, Plaintiff's original
16 photograph of RUN DMC photocopy attached to Plaintiff's Initial Disclosures as
17 Exhibit 2 and all images created by Defendant bearing the SUBJECT PHOTOGRAPH
18 or any portion thereof.

19 ///

20 ///

21

1 **REQUEST FOR PRODUCTION NO. 11.**

2 All DOCUMENTS supporting or refuting YOUR contention that Defendant and
3
4 Counter-Claimant Thierry Guetta's acts "have caused [YOU] to suffer, and to continue
5 to suffer, substantial damage to its [sic] business in the form of diversion of trade, loss
6 of income and profits, and a dilution of the value of its [sic] rights" as alleged in
7
8 paragraph 23 of YOUR Complaint.

9 **RESPONSE:**

10 Objection. Unduly burdensome in that documents responsive to this Request are
11 already in possession of propounding party, if not moreso. Subject to and without
12 waiving this objection, Plaintiff responds: Plaintiff identifies Copyright Registration
13 VA 1-221-001 attached to Plaintiff's Initial Disclosures as Exhibit 1, Plaintiff's original
14 photograph of RUN DMC photocopy attached to Plaintiff's Initial Disclosures as
15 Exhibit 2 and all images created by Defendant bearing the SUBJECT PHOTOGRAPH
16 or any portion thereof.

17 **REQUEST FOR PRODUCTION NO. 12.**

18 All DOCUMENTS supporting or refuting YOUR contention that Defendant and
19 Counter-Claimant Thierry Guetta's has "obtained direct and indirect profits [he] would
20 not otherwise have realized but for [his] infringement of Plaintiff's copyrighted Subject
21 Image" as alleged in paragraph 23 of YOUR Complaint.

1 **RESPONSE:**

2 Objection. Unduly burdensome in that documents responsive to this Request are
3 already in possession of propounding party, if not moreso. Subject to and without
4 waiving this objection, Plaintiff responds: Plaintiff identifies Defendant's sales
5 summaries for sales of any goods bearing Plaintiff's photograph of RUN DMC or any
6 portion thereof.

7 **REQUEST FOR PRODUCTION NO. 13.**

8 All DOCUMENTS that support or refute YOUR denial that Defendant and Counter-
9 Claimant Thierry Guetta's use of the SUBJECT PHOTOGRAPH was fair use.

10 **RESPONSE:**

11 Objection. This Request fails to describe with reasonable particularity each item or
12 category of items to be inspected, and seeks documents protected by the attorney work
13 product doctrine. Subject to and without waiving this objection, Plaintiff responds:
14 Plaintiff identifies Plaintiff's original photograph of RUN DMC photocopy attached to
15 Plaintiff's Initial Disclosures as Exhibit 2 and all images created by Defendant bearing
16 the SUBJECT PHOTOGRAPH or any portion thereof.

17 **REQUEST FOR PRODUCTION NO. 14.**

18 All DOCUMENTS that support or refute YOUR denial that Defendant and Counter-
19 Claimant Thierry Guetta's use of the SUBJECT PHOTOGRAPH was de minimis.

20 **RESPONSE:**

1 Objection. This Request fails to describe with reasonable particularity each item or
2 category of items to be inspected, and seeks documents protected by the attorney work
3 product doctrine. Subject to and without waiving this objection, Plaintiff responds:
4 Plaintiff identifies Plaintiff's original photograph of RUN DMC photocopy attached to
5 Plaintiff's Initial Disclosures as Exhibit 2 and all images created by Defendant bearing
6 the SUBJECT PHOTOGRAPH or any portion thereof.

7
8
9 **REQUEST FOR PRODUCTION NO. 15.**

10 All DOCUMENTS that support or refute YOUR denial that Defendant and Counter-
11 Claimant Thierry Guetta's use of the SUBJECT PHOTOGRAPH was transformative.

12
13 **RESPONSE:**

14 Objection. This Request fails to describe with reasonable particularity each item or
15 category of items to be inspected, and seeks documents protected by the attorney work
16 product doctrine. Subject to and without waiving this objection, Plaintiff responds:
17 Plaintiff identifies Plaintiff's original photograph of RUN DMC photocopy attached to
18 Plaintiff's Initial Disclosures as Exhibit 2 and all images created by Defendant bearing
19 the SUBJECT PHOTOGRAPH or any portion thereof.

20
21 **REQUEST FOR PRODUCTION NO. 16.**

22 All DOCUMENTS that discuss, RELATE OR REFER TO the SUBJECT
23 PHOTOGRAPH.

24
25
26
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28

1 **RESPONSE:**

2 Objection. This Request fails to describe with reasonable particularity each item or
3 category of items to be inspected, and seeks documents protected by the attorney work
4 product doctrine. Subject to and without waiving this objection, Plaintiff responds:
5 Copyright Registration VA 1-221-001 attached to Plaintiff's Initial Disclosures as
6 Exhibit 1, Plaintiff's original photograph of RUN DMC photocopy attached to
7 Plaintiff's Initial Disclosures as Exhibit 2, Plaintiff's book, *F*** You Heroes: Glen E.*
8 *Friedman Photographs 1976-1991*, Burning Flags Press, 1994, and all images created
9 by Defendant bearing the SUBJECT PHOTOGRAPH or any portion thereof.
10

11 **REQUEST FOR PRODUCTION NO. 17.**

12 All DOCUMENTS that evidence that the SUBJECT PHOTOGRAPH was a well
13 known image prior to Defendant and Counter-Claimant Thierry Guetta's use of the
14 image.
15

16 **RESPONSE:**

17 Objection. Vague and ambiguous so as to be unintelligible. Further objection.
18 Overbroad and unduly burdensome. Subject to and without waiving this objection,
19 Plaintiff responds: Plaintiff identifies Plaintiff's book, *F*** You Heroes: Glen E.*
20 *Friedman Photographs 1976-1991*, Burning Flags Press, 1994 which is equally
21 available to propounding party.
22

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1 **REQUEST FOR PRODUCTION NO. 18.**

2 All DOCUMENTS that RELATE OR REFER TO any monies you have ever received
3
4 in connection with the SUBJECT PHOTOGRAPH.

5 **RESPONSE:**

6 Objection. Overbroad and unduly burdensome. Further objection: This Request seeks
7
8 documents protected by Plaintiff's right to privacy. Not relevant, nor likely to lead to
9 the discovery of admissible evidence. Subject to and without waiving this objection,
10
11 Plaintiff responds: The SUBJECT PHOTOGRAPH was widely displayed all over the
12 world from 1994-2010 in publicity and promotional materials for the group Run DMC
13 as well as in publicity and promotional materials for Plaintiff's book *Fuck You Heroes*;
14 *Glen E. Friedman Photographs 1976-1991*, and in exhibitions of Plaintiff's work. The
15 SUBJECT PHOTOGRAPH appeared in the book, *Fuck You Heroes; Glen E. Friedman*
16 *Photographs 1976-1991*, Burning Flags Press, 1994. Plaintiff received monies for sales
17
18 of this book, however, it is impossible to determine which monies are directly
19
20 attributable to the SUBJECT PHOTOGRAPH

22 **REQUEST FOR PRODUCTION NO. 19.**

23 All DOCUMENTS that RELATE OR REFER TO any damages you have suffered in
24
25 any manner by any conduct Defendant and Counter-Claimant has engaged in.

26
27
28

1 **RESPONSE:**

2 Objection. Unduly burdensome in that documents responsive to this Request are
3 already in possession of propounding party. Subject to and without waiving this
4 objection, Plaintiff responds: Plaintiff identifies Defendant's sales documents for sales
5 of any goods bearing Plaintiff's photograph of RUN DMC or any portion thereof.
6
7 Investigation and discovery continue, therefore, Plaintiff reserves the right to
8 supplement this response in the future.

9
10 **REQUEST FOR PRODUCTION NO. 20.**

11 All DOCUMENTS that RELATE OR REFER TO the manner in which the
12 SUBJECT PHOTOGRAPH was first publicly released.

13
14 **RESPONSE:**

15 Objection. Vague and ambiguous so as to be unintelligible. Subject to and without
16 waiving this objection, Plaintiff responds: Plaintiff identifies Plaintiff's book, *F****
17 *You Heroes: Glen E. Friedman Photographs 1976-1991*, Burning Flags Press, 1994
18 which is equally available to propounding party.

19
20 **REQUEST FOR PRODUCTION NO. 21.**

21 All DOCUMENTS that RELATE OR REFER TO each and every instance in which the
22 SUBJECT PHOTOGRAPH was publicly displayed.

23 ///

24 ///

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1 **RESPONSE:**

2 Objection overbroad and unduly burdensome. Subject to and without waiving this
3
4 objection, Plaintiff responds: The SUBJECT IMAGE was widely displayed all over the
5 world from 1994-2010 in publicity and promotional materials for the group Run DMC
6 as well as in publicity and promotional materials for Plaintiff's book *Fuck You Heroes;*
7
8 *Glen E. Friedman Photographs 1976-1991*, and in exhibitions of Plaintiff's work.
9
10 Plaintiff further identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
11 *Photographs 1976-1991* which is equally available to propounding party.

12 **REQUEST FOR PRODUCTION NO. 22.**

13 All DOCUMENTS that RELATE OR REFER TO each and every instance in which the
14
15 SUBJECT PHOTOGRAPH was published.

16 **RESPONSE:**

17 Objection. This Request fails to describe with reasonable particularity each item or
18
19 category of items to be inspected, is overbroad, and unduly burdensome. Subject to and
20 without waiving this objection, Plaintiff responds: The SUBJECT IMAGE was widely
21 displayed all over the world from 1994-2010 in publicity and promotional materials for
22 the group Run DMC as well as in publicity and promotional materials for Plaintiff's
23 book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions
24 of Plaintiff's work. Plaintiff further identifies Plaintiff's book *Fuck You Heroes; Glen*
25 *E. Friedman Photographs 1976-1991* which is equally available to propounding party.
26
27
28

1 **REQUEST FOR PRODUCTION NO. 23.**

2 All DOCUMENTS that constitute a publishing of the SUBJECT PHOTOGRAPH.

3

4 **RESPONSE:**

5 Objection. Vague and ambiguous so as to be unintelligible. Further objection. This
6 Request fails to describe with reasonable particularity each item or category of items to
7 be inspected, is overbroad, and unduly burdensome. Subject to and without waiving
8 this objection, Plaintiff responds: The SUBJECT IMAGE was widely displayed all
9 over the world from 1994-2010 in publicity and promotional materials for the group
10 Run DMC as well as in publicity and promotional materials for Plaintiff's book *Fuck*
11 *You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions of
12 Plaintiff's work. Plaintiff further identifies Plaintiff's book *Fuck You Heroes; Glen E.*
13 *Friedman Photographs 1976-1991* which is equally available to propounding party.
14

15 **REQUEST FOR PRODUCTION NO. 24.**

16 All DOCUMENTS that constitute RELATE OR REFER TO each and every publishing
17 of the SUBJECT PHOTOGRAPH.

18

19 **RESPONSE:**

20 Objection. Vague and ambiguous so as to be unintelligible. Further Objections: This
21 Request fails to describe with reasonable particularity each item or category of items to
22 be inspected, is overbroad, and unduly burdensome. Subject to and without waiving
23 this objection, Plaintiff responds: The SUBJECT IMAGE was widely displayed all
24

1 over the world from 1994-2010 in publicity and promotional materials for the group
2 Run DMC as well as in publicity and promotional materials for Plaintiff's book *Fuck*
3 *You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions of
4 Plaintiff's work. Plaintiff further identifies Plaintiff's book *Fuck You Heroes; Glen E.*
5 *Friedman Photographs 1976-1991* which is equally available to propounding party.
6
7

8 **REQUEST FOR PRODUCTION NO. 25.**

9 All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken to
10 generate monies with respect to the SUBJECT photograph.
11

12 **RESPONSE:**

13 Objection. Vague and ambiguous as to the phrase "efforts YOU have taken to generate
14 monies." Further objection; overbroad and unduly burdensome. Subject to and without
15 waiving this objection, Plaintiff responds: The SUBJECT IMAGE was widely
16 displayed all over the world from 1994-2010 in publicity and promotional materials for
17 the group Run DMC as well as in publicity and promotional materials for Plaintiff's
18 book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions
19 of Plaintiff's work. The SUBJECT PHOTOGRAPH appeared in the book, *Fuck You*
20 *Heroes; Glen E. Friedman Photographs 1976-1991*, Burning Flags Press, 1994.
21
22 Plaintiff received monies for sales of this book, however, it is impossible to determine
23 which monies are directly attributable to the SUBJECT PHOTOGRAPH.
24
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1 **REQUEST FOR PRODUCTION NO. 26.**

2 All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken to
3
4 license the SUBJECT PHOTOGRAPH.

5 **RESPONSE:**

6 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
7
8 reasonable particularity each item or category of items to be inspected is overbroad,
9
10 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
11
12 relevant to any claim or defense in this matter, to the extent it seeks documents that did
13
14 not result in a license. Subject to and without waiving this objection, Plaintiff responds:

15 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
16
17 publicity and promotional materials for the group Run DMC as well as in publicity and
18
19 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
20
21 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
22
23 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
24
25 which is equally available to propounding party.

26 **REQUEST FOR PRODUCTION NO. 27.**

27 All DOCUMENTS that memorialize, RELATE OR REFER TO any discussions YOU
28
29 had in an effort to license the SUBJECT PHOTOGRAPH.

30 ///

31 ///

1 **RESPONSE:**

2 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
3 reasonable particularity each item or category of items to be inspected is overbroad,
4 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
5 relevant to any claim or defense in this matter, to the extent it seeks documents that did
6 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
7
8 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
9 publicity and promotional materials for the group Run DMC as well as in publicity and
10 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
11 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
12 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
13 which is equally available to propounding party.

14 **REQUEST FOR PRODUCTION NO. 28.**

15 All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken to sell
16 any lithographs and/or reproductions the SUBJECT PHOTOGRAPH.

17 **RESPONSE:**

18 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
19 reasonable particularity each item or category of items to be inspected is overbroad,
20 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
21 relevant to any claim or defense in this matter, to the extent it seeks documents that did
22 not result in a license.

1 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
2
3 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
4 publicity and promotional materials for the group Run DMC as well as in publicity and
5 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
6 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
7 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
8 which is equally available to propounding party.
9

10 **REQUEST FOR PRODUCTION NO. 29.**

11 All DOCUMENTS that memorialize, RELATE ORREFER TO any discussions YOU
12 had in an effort to sell any lithographs and/or reproductions of the SUBJECT
13 PHOTOGRAPH.

14 **RESPONSE:**

15 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
16 reasonable particularity each item or category of items to be inspected is overbroad,
17 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
18 relevant to any claim or defense in this matter, to the extent it seeks documents that did
19 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
20
21 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
22 publicity and promotional materials for the group Run DMC as well as in publicity and
23 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
24
25
26
27
28

1 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
2 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
3 which is equally available to propounding party.
4

5 **REQUEST FOR PRODUCTION NO. 30.**

6 All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken to sell
7
8 any products that incorporate the SUBJECT PHOTOGRAPH including, but not limited
9 to, any books, apparel and/or other merchandise.
10

11 **RESPONSE:**

12 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
13 reasonable particularity each item or category of items to be inspected is overbroad,
14 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
15 relevant to any claim or defense in this matter, to the extent it seeks documents that did
16 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
17
18 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
19 publicity and promotional materials for the group Run DMC as well as in publicity and
20 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
21
22 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
23 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
24
25 which is equally available to propounding party.
26

27

28

1 **REQUEST FOR PRODUCTION NO. 31.**

2 All DOCUMENTS that memorialize, RELATE OR REFER TO any discussions YOU
3
4 had in an effort to sell any products that incorporate the SUBJECT PHOTOGRAPH
5 including, but not limited to, any books, apparel and/or other merchandise.

6 **RESPONSE:**

7 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
8 reasonable particularity each item or category of items to be inspected is overbroad,
9
10 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
11 relevant to any claim or defense in this matter, to the extent it seeks documents that did
12 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
13
14 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
15 publicity and promotional materials for the group Run DMC as well as in publicity and
16 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
17
18 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
19
20 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
21
22 which is equally available to propounding party.

23 **REQUEST FOR PRODUCTION NO. 32.**

24 All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU received
25
26 for licensing the SUBJECT PHOTOGRAPH.

1 **RESPONSE:**

2 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
3 reasonable particularity each item or category of items to be inspected is overbroad,
4 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
5 relevant to any claim or defense in this matter, to the extent it seeks documents that did
6 not result in a license. Subject to and without waiving this objection, Plaintiff responds:

7 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
8 publicity and promotional materials for the group Run DMC as well as in publicity and
9 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
10 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff received
11 monies for sales of this book, however, it is impossible to determine which monies are
12 directly attributable to the SUBJECT PHOTOGRAPH.

13 **REQUEST FOR PRODUCTION NO. 33.**

14 All DOCUMENTS that constitute, evidence, RELATE OR REFER TO any licensing
15 agreement that in any way RELATES OR REFERS TO the SUBJECT
16 PHOTOGRAPH.

17 **RESPONSE:**

18 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
19 reasonable particularity each item or category of items to be inspected is overbroad,
20 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
21

1 relevant to any claim or defense in this matter, to the extent it seeks documents that did
2 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
3
4 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
5 publicity and promotional materials for the group Run DMC as well as in publicity and
6 promotional materials for Plaintiff's book *Fuck You Heroes ; Glen E. Friedman*
7
8 *Photographs 1976-1991*, which is equally available to propounding party, and in
9 exhibitions of Plaintiff's work.
10

11 **REQUEST FOR PRODUCTION NO. 34.**

12 All DOCUMENTS that constitute, evidence, RELATE OR REFER TO the termination
13 of any licensing agreement that in any way RELATES OR REFERS TO the SUBJECT
14 PHOTOGRAPH.
15

16 **RESPONSE:**
17

18 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
19 reasonable particularity each item or category of items to be inspected is overbroad,
20 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
21 relevant to any claim or defense in this matter, to the extent it seeks documents that did
22 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
23
24 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
25 publicity and promotional materials for the group Run DMC as well as in publicity and
26 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
27
28

1 *Photographs 1976-1991*, which is equally available to propounding party, and in
2 exhibitions of Plaintiff's work.
3

4 **REQUEST FOR PRODUCTION NO. 35.**

5 All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU received
6 for selling any lithographs or reproductions of the SUBJECT PHOTOGRAPH.
7

8 **RESPONSE:**

9 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
10 reasonable particularity each item or category of items to be inspected is overbroad,
11 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
12 relevant to any claim or defense in this matter, to the extent it seeks documents that did
13 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
14
15 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
16 publicity and promotional materials for the group Run DMC as well as in publicity and
17 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
18
19 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
20
21 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
22
23 which is equally available to propounding party.

24 **REQUEST FOR PRODUCTION NO. 36.**

25
26 All DOCUMENTS that RELATE OR REFER TO each and every instance in which a
27 lithograph and/or reproduction of the SUBJECT PHOTOGRAPH was sold.
28

1 **RESPONSE:**

2 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
3 reasonable particularity each item or category of items to be inspected is overbroad,
4 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
5 relevant to any claim or defense in this matter, to the extent it seeks documents that did
6 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
7
8 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
9 publicity and promotional materials for the group Run DMC as well as in publicity and
10 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
11 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
12 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
13 which is equally available to propounding party.

14 **REQUEST FOR PRODUCTION NO. 37.**

15 All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU received
16 for the sale of any products that incorporate the SUBJECT PHOTOGRAPH including,
17 but not limited to, any books, apparel and/or other merchandise.

18 **RESPONSE:**

19 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
20 reasonable particularity each item or category of items to be inspected is overbroad,
21 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
22

1 relevant to any claim or defense in this matter, to the extent it seeks documents that did
2 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
3
4 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
5 publicity and promotional materials for the group Run DMC as well as in publicity and
6 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
7
8 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
9 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
10 which is equally available to propounding party. Plaintiff received monies for sales of
11 this book, however, it is impossible to determine which monies are directly attributable
12 to the SUBJECT PHOTOGRAPH.
13
14

REQUEST FOR PRODUCTION NO. 38.

15 All DOCUMENTS that RELATE OR REFER TO each and every sale of any products
16 that incorporate the SUBJECT PHOTOGRAPH including, but not limited to, any
17 books, apparel and/or other merchandise.
18
19

RESPONSE:

20 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
21 reasonable particularity each item or category of items to be inspected is overbroad,
22 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
23 relevant to any claim or defense in this matter, to the extent it seeks documents that did
24 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
25
26
27
28

1 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
2 publicity and promotional materials for the group Run DMC as well as in publicity and
3 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
4 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
5 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
6 which is equally available to propounding party. Plaintiff received monies for sales of
7 this book, however, it is impossible to determine which monies are directly attributable
8 to the SUBJECT PHOTOGRAPH.

12 **REQUEST FOR PRODUCTION NO. 39.**

13 All DOCUMENTS that RELATE OR REFER TO each and every instance in which
14 YOU received monies with respect to the SUBJECT PHOTOGRAPH.

16 **RESPONSE:**

17 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
18 reasonable particularity each item or category of items to be inspected is overbroad,
19 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
20 relevant to any claim or defense in this matter, to the extent it seeks documents that did
21 not result in a license. Subject to and without waiving this objection, Plaintiff responds:

22 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
23 publicity and promotional materials for the group Run DMC as well as in publicity and
24 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
25
26
27
28

1 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
2 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
3 which is equally available to propounding party. Plaintiff received monies for sales of
4 this book, however, it is impossible to determine which monies are directly attributable
5 to the SUBJECT PHOTOGRAPH.
6
7

8 **REQUEST FOR PRODUCTION NO. 40.**

9 All DOCUMENTS that RELATE OR REFER TO the inclusion or omission of
10 copyright notice with respect to the SUBJECT PHOTOGRAPH in any medium.
11

12 **RESPONSE:**

13 Objection: This Request seeks documents that are not relevant to any claim or defense
14 in this matter. Subject to and without waiving this objection, Plaintiff responds: The
15 SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
16 publicity and promotional materials for the group Run DMC as well as in publicity and
17 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
18 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
19 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
20 which is equally available to propounding party. Plaintiff received monies for sales of
21 this book, however, it is impossible to determine which monies are directly attributable
22 to the SUBJECT PHOTOGRAPH.
23
24

25 **REQUEST FOR PRODUCTION NO. 41.**

1 All DOCUMENTS filed in or referring to lawsuits, countersuits, arbitrations or other
2 legal proceedings brought by or against YOU for infringement of the SUBJECT
3 PHOTOGRAPH.

4

5 **RESPONSE:**

6 Other than documents relating to the instant case, documents responsive to this Request
7 do not exist.

8

9 **REQUEST FOR PRODUCTION NO. 42.**

10 All DOCUMENTS that evidence, RELATE OR REFER TO the date on which YOU
11 first learned of the alleged infringement by Defendant and Counter-Claimant Thierry
12 Guetta with respect to the SUBJECT PHOTOGRAPH.

13

14 **RESPONSE:**

15 Objection. Vague and ambiguous so as to be unintelligible. Further objection. This
16 Request calls for production of some documents that are not relevant, nor likely to lead
17 to the discovery of admissible evidence. Subject to and without waiving this objection.
18 Plaintiff responds: Documents responsive to this Request do not exist.

19

20 **REQUEST FOR PRODUCTION NO. 43.**

21 All DOCUMENTS that RELATE OR REFER TO any investigations, surveillance,
22 "buys," "stings," searches and other means or methods by which YOU determined
23 Defendant and Counter-Claimant Thierry Guetta had infringed upon YOUR copyright
24 with respect to the SUBJECT PHOTOGRAPH.

1 **RESPONSE:**

2 This Request seeks information protected by the attorney work product doctrine.

3

4 **REQUEST FOR PRODUCTION NO. 44.**

5 All DOCUMENTS that RELATE OR REFER TO any infringement related to the

6 SUBJECT PHOTOGRAPH not perpetrated by Defendant and Counter-Claimant

7

8 Thierry Guetta.

9

10 **RESPONSE:**

11 Objection: This Request seeks documents that are not relevant to any claim or defense
12 in this action.

13

14 **REQUEST FOR PRODUCTION NO. 45.**

15 All press releases, transcripts of press conferences and other DOCUMENTS containing,
16 or referring to, statements made by plaintiffs concerning this suit.

17

18 **RESPONSE:**

19 Plaintiff identifies the article located at:

20 [http://thumped.com/interviews/photographers/glen-e-friedman-let-the-kids-shoot-them-](http://thumped.com/interviews/photographers/glen-e-friedman-let-the-kids-shoot-them-now.html)
21 now.html

22

23 **REQUEST FOR PRODUCTION NO. 46.**

24 All DOCUMENTS that containing, RELATE OR REFER TO communications between
25 YOU and any publicist or public relations company concerning this suit.

1 **RESPONSE:**

2 Documents responsive to this Request do not exist.
3

4 **REQUEST FOR PRODUCTION NO. 47.**

5 All DOCUMENTS evidencing YOUR suspension or disqualification from conducting
6 business in any jurisdiction.
7

8 **RESPONSE:**

9 None.
10

11 **REQUEST FOR PRODUCTION NO. 48.**

12 All DOCUMENTS that evidence, RELATE OR REFER TO YOUR conviction of a
13 felony.
14

15 **RESPONSE:**

16 None.
17

18 **REQUEST FOR PRODUCTION NO. 49.**

19 All DOCUMENTS that RELATE OR REFER TO YOUR communications with any
20 customer or prospective customer of Defendant and Counter-Claimant Thierry Guetta
21 concerning this suit or the alleged copyright infringement.
22

23 **RESPONSE:**

24 Objection. This Request, and particularly the phrase "customer or prospective customer
25 of Defendant and Counter-Claimant Thierry Guetta" is so vague and ambiguous as to be
26 unintelligible as it could encompass an almost limitless number of undefined or ill-
27
28

1 defined people, many of whom any communications are privileged. Without
2 waiving this objection, Plaintiff responds as follows: None.
3
4

5 Dated: September 14, 2010

THE LINDE LAW FIRM

6 By: 
7

8 Douglas A. Linde
Erica L. Allen
9 Attorneys for Plaintiff
10 GLEN E. FRIEDMAN

11

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PROOF OF SERVICE
(FRCP 5)

3 I am employed in the county of Los Angeles, State of California.
4 I am over the age of eighteen years and not a party to the within
action; my business address is 9000 Sunset Boulevard, Ste. 1025, Los
Angeles, CA 90069.

6 On September 15, 2010 I served PLAINTIFF'S RESPONSES TO REQUEST
FOR PRODUCTION OF DOCUMENTS, SET ONE on the interested parties to
this action by the following means:

x by placing _____ the original _____ a true copy enclosed in
a sealed envelope(s) addressed as stated on the attached Service
List.

10 x BY MAIL. I deposited such envelope(s) in the mail in Los
11 Angeles, California. The envelope(s) was mailed with postage
thereon fully prepaid.

12 BY PERSONAL SERVICE. I caused to be delivered such
envelope(s) by hand to the addressee(s) stated on the attached
13 Service List.

14 _____ BY FACSIMILE. I sent by facsimile a copy of the above-
described document to the interested parties identified on the
15 attached Service List.

16 _____ BY E-MAIL. I sent by electronic mail a .pdf copy of the
17 fully executed above-described document to the interested parties
identified on the attached Service List.

18 Executed on September 15, 2010 in Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

21 | Erica L. Allen

22 | Name _____

Signature

SERVICE LIST

Alan S. Gutman
John Juenger
LAW OFFICES OF ALAN S. GUTMAN
9401 Wilshire Blvd., Ste. 575
Beverly Hills, CA 90212

LAW OFFICES OF
ALAN S. GUTMAN
9401 WILSHIRE BOULEVARD, SUITE 575
BEVERLY HILLS, CALIFORNIA 90212-2918
TELEPHONE: 310-385-0700
FACSIMILE: 310-385-0710
jluenger@gutmanlaw.com
www.gutmanlaw.com

October 6, 2010

Via Facsimile and U.S. Mail

Douglas A. Linde, Esq.
Erica Gonzales, Esq.
THE LINDE LAW FIRM
9000 Sunset Blvd., Suite 1025
Los Angeles, CA 90069

Re: Glen E. Friedman vs. Thierry Guetta aka Mr. Brainwash,
USDC, Central District of California, Case No. CV10-0014 DDP (JCx)

Dear Doug and Erica:

This letter concerns Plaintiff's supplemental responses to Defendant's First Set of Requests for Admissions and Interrogatories and Plaintiff's responses to Defendant's First Set of Requests for Production of Documents. As explained below, the responses are deficient. In the event that we are unable to resolve these issues informally, we will move for an order compelling further responses and for an award of attorney's fees in preparing the same. Please consider this letter a request for a conference pursuant to L.R. 37-1.

Interrogatories

Interrogatory Nos. 6 through 9 concern Plaintiff's attempts to generate monies with respect to the subject photograph, all instances wherein monies were received for the photograph, every instance in which a reproduction of the photograph was sold and profits from sales of the photograph, respectively. First of all, no supplemental response to Interrogatory No. 8 was provided, although it was referenced in my previous correspondence. Moreover, the interrogatories ask for specific information regarding these efforts and monies received. For example, Interrogatory No. 6 asks for all advertising efforts, dates and descriptions of discussions regarding the licensing of the photograph and all documents that refer to these efforts. The supplemental responses to Interrogatory Nos. 6, 7 and 9 contain identical language that is entirely conclusory and does not include the specific information requested. The supplemental responses state that the photograph was "widely displayed all over the world from 1994-2010 in publicity and promotional materials for the group Run DMC." It is unclear how Run DMC's use of the photograph constitutes efforts Plaintiff took to promote the sale of the photograph. Also, if Plaintiff was paid in connection with Run DMC's use of the photograph he must indicate as much, including the amount. The supplemental responses further indicate that the photograph was used in promotional

EXHIBIT H

EXHIBIT H PAGE 86

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Doug Linde, Esq.
Erica Gonzales, Esq.
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materials for Plaintiff's book and at exhibitions of Plaintiff's work and that while Plaintiff received money from book sales, "it is impossible to determine which monies are directly attributable to the SUBJECT PHOTOGRAPH." As Plaintiff contends that he attempted to generate monies with respect to the subject photograph through his efforts to sell his book, Plaintiff must provide the specifics requested, including all advertising efforts, descriptions of conversations.

Plaintiff's responses clearly do not provide Defendant with an understanding as to the efforts Plaintiff took to market the photograph and what monies he received in connection with the photograph. With respect to the interrogatories pertaining to monies received in connection the subject photograph, further responses may not be necessary if Plaintiff is willing to stipulate that he suffered no losses as a result of any of Defendants' actions. Please let us know Plaintiff's position in that regard. Otherwise, please provide further supplemental responses to each of these interrogatories that addresses all of the specific information requested.

Requests for Production of Documents

As a preliminary matter, none of the responses comply with the provisions of FRCP 34, which require a responding party to either state which categories it will comply with or to state the reason why responding party is unable to comply with the request after engaging in a diligent search and reasonable inquiry. Plaintiff's responses include phrases such as "documents responsive to this Request have been previously provided." This is clearly an insufficient response. Plaintiff must indicate that all responsive documents will be or have been produced or explain why Plaintiff is unable to comply with the request. To the extent that any documents are withheld based on any objections, Plaintiff must provide a privilege log pursuant to FRCP 26(b)(5)(A).

Request for Production No. 18 seeks all documents relating to any monies received in connection with the subject photograph. The response includes language identical to supplemental responses provided to the interrogatories, discussed above, and does not indicate whether any documents will be produced. As Plaintiff claims that he received monies in connection with the photograph through sales of his book, Defendant is entitled all documents that relate or refer to those book sales. Please provide a supplemental response indicating that all responsive documents will be produced and produce those documents.

Request for Production Nos. 22 through 24 seek all documents relating to every instance in which the photograph was published. Again, the supplemental interrogatory response

GUTMAN LAW

Doug Linde, Esq.
Erica Gonzales, Esq.
The Linde Law Firm
September 28, 2010
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is provided. Plaintiff must provide all documents relating to each and every publishing of the subject photograph.

For the same reasons stated above, Plaintiff must provide all documents relating to Plaintiff's efforts to generate monies and monies received pertaining to the subject photograph, including documents relating to discussions in that regard, as requested by Request for Documents Nos. 25 through 39. The language from the supplemental interrogatory responses provided in response to these requests is non-responsive. Additionally, Plaintiff objects on privacy and relevancy grounds to the extent the document requests seek documents that did not result in a license. These objections are not well taken as Plaintiff's efforts to market the photograph, whether they resulted in a license or not, are directly relevant to this action that Plaintiff initiated.

Request for Production No. 40 concerns documents relating to the inclusion or omission of copyright notice with respect to the subject photograph in any medium. Obviously, the copyright notice is relevant. The supplemental interrogatory language provided is non-responsive.

Request for Production No. 43 seeks documents relating to any investigations or stings by which Plaintiff determined Defendant infringed upon his copyright. Plaintiff indicates that the request seeks information protected by the attorney work product doctrine. That doctrine protects "trial preparation materials that reveal an attorney's strategy, intended lines of proof, evaluation of strengths and weaknesses, and inferences drawn from interviews." Rutter Group Practice Guide: Federal Civil Procedure Before Trial, § 11:825 citing FRCP 26(b)(3) and Hickman v. Taylor, 329 U.S. 495, 511 (1947). We fail to see how documents responsive to the request would be afforded protection under the work product doctrine. To the extent any documents have been withheld, they must be identified in the privilege log.

Plaintiff objects on the grounds of relevance in response to Request for Production No. 44, which seeks all documents relating to infringement of the photograph by anyone other than Defendant. The documents are sought relevant as infringement by others may be indicative of the market value of the photograph. Plaintiff must provide any responsive documents.

The response to Request for Production No. 45 does not indicate if the cited article is the only responsive document. Please provide a response in compliance with FRCP 34.

GUTMAN LAW

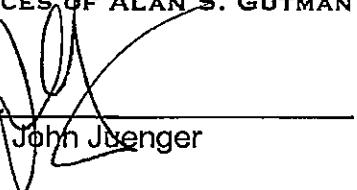
Doug Linde, Esq.
Erica Gonzales, Esq.
The Linde Law Firm
September 28, 2010
Page 4

We look forward to resolving this matter amicably. The foregoing is without prejudice to any and all rights, remedies, claims, actions and defenses, all of which are expressly reserved.

Very truly yours,

LAW OFFICES OF ALAN S. GUTMAN

By: _____


John Juenger

JJ:tmf
GUETTA\LETTER 06 OCT 2010 LINDE

1 **DOUGLAS A. LINDE, ESQ. (SBN 217584)(dal@lindelaw.net)**
2 **ERICA ALLEN, ESQ. (SBN 234922)(ela@lindelaw.net)**
3 **THE LINDE LAW FIRM**
4 **9000 Sunset Boulevard, Ste. 1025**
5 **Los Angeles, California 90069**
6 **Telephone (310) 203-9333**
7 **Fax (310) 203-9233**

GUTMAN LAW
FILE COPY

INDEX NO. _____
DUE DATE: _____
CALENDARED

Attorneys for Plaintiffs,
GLEN E. FRIEDMAN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 GLEN E. FRIEDMAN) Case No. CV10-0014 DDP (JCx)
12) Honorable Dean D. Pregerson
13 Plaintiffs,) Complaint Filed: January 4, 2010
14)
15 v.)
16 THIERRY GUETTA a/k/a MR.) **PLAINTIFF'S SECOND**
17 BRAINWASH; and DOES 1 though) **SUPPLEMENTAL RESPONSES TO**
18 10, inclusive,) **REQUEST FOR ADMISSIONS AND**
19) **INTERROGATORIES, SET ONE**
)
)
Defendants.)
)
)

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

PROPOUNDING PARTY: **THIERRY GUETTA**

RESPONDING PARTY: **GLEN E. FRIEDMAN**

SET NUMBER: **ONE**

1 Plaintiff, GLEN E. FRIEDMAN herewith provides second supplemental
2 responses to Defendant, THIERRY GUETTA'S, Interrogatories and Requests for
3 Admission, Set Number One, as follows:

4 **PRELIMINARY STATEMENT**

5 These responses are made solely for the purpose of this action. Each answer is
6 subject to all objections as to competence, relevance, materiality, propriety and
7 admissibility, and any and all other objections on grounds that would require the
8 exclusion of any statement contained herein if any Interrogatories were asked of, or any
9 statement contained herein were made by, a witness present and testifying in Court, all
10 of which objections and grounds are reserved and may be interposed at the time of trial.

11 Except for explicit facts admitted herein, no incidental or implied admissions are
12 intended hereby. The fact that Plaintiff has answered or objected to any Interrogatory
13 or any part thereof should not be taken as an admission that they accept or admit the
14 existence of any facts set forth or assumed by such interrogatory or that such answer or
15 objection constitutes admissible evidence. The fact that Plaintiff has not answered part
16 of all of any Interrogatory is not intended and shall not be construed to be a waiver by
17 them of all or any part of any object to any Interrogatory propounded by Defendant.

18 To the extent any or all of the Interrogatories call for information which
19 constitutes information or material prepared in anticipation of litigation or for trial or
20 information or material covered by the Work Product Doctrine or which constitutes
21 information which is privileged by virtue of the attorney-client privilege, this Claimant
22 objects to each and every such Interrogatory and thus will not supply or render any
23 information or material protected from discovery by virtue of the Work Product
24 Doctrine or attorney-client privilege.

25 Plaintiff has not completed the investigation of the facts relating to this case, has not
26 completed discovery of this action, and has not completed preparation for trial. The
27
28

1 following answers are given without prejudice to the production of subsequent
2 discovered facts or evidence, or the presentation of facts or theories resulting from
3 subsequently discovered evidence, reevaluation of the existing evidence or evaluation
4 of existing evidence in light of newly-discovered evidence.

5 **RESPONSES**
6

7 **INTERROGATORY NO.6:**

8 IDENTIFY each and every effort YOU have taken to generate monies with respect to
9 the SUBJECT photograph. For purposes of this interrogatory, IDENTIFY shall mean
10
11 (a) all advertising efforts YOU took with respect to the SUBJECT PHOTOGRAPH, (b)
12 the dates, parties and a description of all discussions YOU had with anyone regarding
13 the licensing or sale of the SUBJECT PHOTOGRAPH, (c) the dollar amount YOU
14 suggested for the sale, license or use of the SUBJECT PHOTOGRAPH, and (d) a
15 DESCRIPTION of all DOCUMENTS that RELATE OR REFER TO each and every
16 effort YOU have taken to generate monies with respect to the SUBJECT photograph.
17
18

19 **SUPPLEMENTAL RESPONSE:**
20

21 Plaintiff incorporates by reference all prior objections and responses and provides the
22 following supplemental response: Pursuant to FRCP 33(d), Plaintiff identifies the
23 documents attached to Plaintiff's Supplemental Responses to Request for Production of
24 Documents as Exhibit A. Plaintiff is not in possession of further documents or
25 information with respect to these matters.
26
27
28

1 **INTERROGATORY NO.7:**

2 IDENTIFY each and every instance in which YOU received monies with respect to the
3 SUBJECT PHOTOGRAPH. For purposes of this interrogatory, IDENTIFY shall mean
4
5 (a) the date YOU received monies with respect to the SUBJECT PHOTOGRAPH, (b)
6 the amount of money YOU received with respect to the SUBJECT PHOTOGRAPH, (c)
7
8 a description of the type transaction for which YOU received any monies with respect
9 to the SUBJECT PHOTOGRAPH (e.g. licensing, lithograph sale, book sale, etc.), (d)
10 the person or entity from whom YOU received any monies with respect to the
11 SUBJECT PHOTOGRAPH, and (e) a DESCRIPTION of all DOCUMENTS that
12 RELATE OR REFER TO each and every instance in which YOU received monies with
13 respect to the SUBJECT PHOTOGRAPH.

14 **SUPPLEMENTAL RESPONSE:**

15 Plaintiff incorporates by reference all prior objections and responses and provides the
16 following supplemental response: Pursuant to FRCP 33(d), Plaintiff identifies the
17 documents attached to Plaintiff's Supplemental Responses to Request for Production of
18 Documents as Exhibit A. Plaintiff is not in possession of further documents or
19 information with respect to these matters.

20 **INTERROGATORY NO. 8:**

21 IDENTIFY each and every instance in which a lithograph and/or reproduction of the
22 SUBJECT PHOTOGRAPH was sold. For purposes of this interrogatory, IDENTIFY

1 shall mean, (a) the date any lithograph and/or reproduction of the SUBJECT
2 PHOTOGRAPH was sold, (b) the dollar amount for which the lithograph or
3 reproduction of the SUBJECT PHOTOGRAPH was sold, (c) the name, address and
4 telephone number of each and every person and/or entity that purchased a lithograph or
5 reproduction of the SUBJECT PHOTOGRAPH, and (d) a DESCRIPTION of all
6 DOCUMENTS that RELATE OR REFER TO each and every instance in which a
7 lithograph and/or reproduction of the SUBJECT PHOTOGRAPH was sold.
8
9

10 **SUPPLEMENTAL RESPONSE:**

11 Plaintiff incorporates by reference all prior objections and responses and provides the
12 following supplemental response: Pursuant to FRCP 33(d), Plaintiff identifies the
13 documents attached to Plaintiff's Supplemental Responses to Request for Production of
14 Documents as Exhibit A. Plaintiff is not in possession of further documents or
15 information with respect to these matters.
16
17

18 **INTERROGATORY NO.9:**

19 State YOUR gross and net profits generated from the SUBJECT PHOTOGRAPH and
20 how those amounts were calculated.
21
22

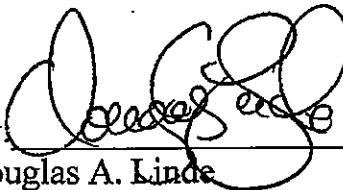
23 **SUPPLEMENTAL RESPONSE:**

24 Plaintiff incorporates by reference all prior objections and responses and provides the
25 following supplemental response: Pursuant to FRCP 33(d), Plaintiff identifies the
26 documents attached to Plaintiff's Supplemental Responses to Request for Production of
27
28

1 Documents as Exhibit A. Plaintiff is not in possession of further documents or
2 information with respect to these matters.
3
4
5

6 Dated: November 19, 2010

THE LINDE LAW FIRM

7
8
9 By: 
10 Douglas A. Linde

11 Erica L. Allen
12 Attorneys for Plaintiff
13 GLEN E. FRIEDMAN

14
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PROOF OF SERVICE
(FRCP 5)

3 I am employed in the county of Los Angeles, State of California.
4 I am over the age of eighteen years and not a party to the within
action; my business address is 9000 Sunset Boulevard, Ste. 1025, Los
Angeles, CA 90069.

On November 22, 2010 I served PLAINTIFF'S SECOND SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSIONS AND INTERROGATORIES, SET ONE on the interested parties to this action by the following means:

x by placing _____ the original _____ a true copy enclosed in
a sealed envelope(s) addressed as stated on the attached Service
List.

10 X BY MAIL. I deposited such envelope(s) in the mail in Los
11 Angeles, California. The envelope(s) was mailed with postage
thereon fully prepaid.

12 BY PERSONAL SERVICE. I caused to be delivered such
envelope(s) by hand to the addressee(s) stated on the attached
13 Service List.

14 BY FACSIMILE. I sent by facsimile a copy of the above-
described document to the interested parties identified on the
15 attached Service List.

16 **BY E-MAIL.** I sent by electronic mail a .pdf copy of the
17 fully executed above-described document to the interested parties
identified on the attached Service List.

18 Executed on November 22, 2010 in Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

21 Jeffrey T. Allen

22


Signature

SERVICE LIST

Alan S. Gutman
John Juenger
LAW OFFICES OF ALAN S. GUTMAN
9401 Wilshire Blvd., Ste. 575
Beverly Hills, CA 90212

1 DOUGLAS A. LINDE, ESQ. (SBN 217584)(dal@lindelaw.net)
2 ERICA ALLEN, ESQ. (SBN 234922)(ela@lindelaw.net)
3 THE LINDE LAW FIRM
4 9000 Sunset Boulevard, Ste. 1025
5 Los Angeles, California 90069
6 Telephone (310) 203-9333
7 Fax (310) 203-9233

5 Attorneys for Plaintiffs,
6 GLEN E. FRIEDMAN

GUTMAN LAW
FILE COPY

INDEX NO.

DUE DATE: _____

CALENDARED _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 GLEN E. FRIEDMAN) Case No. CV10-0014 DDP (JCx)
12 Plaintiffs,) Honorable Dean D. Pregerson
13) Complaint Filed: January 4, 2010
14 v.)
15 THIERRY GUETTA a/k/a MR.) **PLAINTIFF'S RESPONSE TO**
16 BRAINWASH; and DOES 1 though) **REQUEST FOR PRODUCTION, SET**
17 10, inclusive,) **ONE**
18 Defendants.)
19

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:

22 PROPOUNDING PARTY: THIERRY GUETTA

RESPONDING PARTY: GLEN E. FRIEDMAN

25 || SET NUMBER: **ONE**

1 Plaintiff, GLEN E. FRIEDMAN herewith provides responses to Defendant,
2 THIERRY GUETTA'S, Request for Production of Documents, Set Number One, as
3 follows:

4 **PRELIMINARY STATEMENT**

5 These responses are made solely for the purpose of this action. Each answer is
6 subject to all objections as to competence, relevance, materiality, propriety and
7 admissibility, and any and all other objections on grounds that would require the
8 exclusion of any statement contained herein if any Request were asked of, or any
9 statement contained herein were made by, a witness present and testifying in Court, all
10 of which objections and grounds are reserved and may be interposed at the time of trial.
11

12 Except for explicit facts admitted herein, no incidental or implied admissions are
13 intended hereby. The fact that Plaintiff has answered or objected to any Request or any
14 part thereof should not be taken as an admission that they accept or admit the existence
15 of any facts set forth or assumed by such Request or that such answer or objection
16 constitutes admissible evidence. The fact that Plaintiff has not answered part of all of
17 any Request is not intended and shall not be construed to be a waiver by them of all or
18 any part of any object to any Request propounded by Defendant.

19 To the extent any or all of the Requests call for information which constitutes
20 information or material prepared in anticipation of litigation or for trial or information
21 or material covered by the Work Product Doctrine or which constitutes information
22 which is privileged by virtue of the attorney-client privilege, this Claimant objects to
23 each and every such Request and thus will not supply or render any information or
24 material protected from discovery by virtue of the Work Product Doctrine or attorney-
25 client privilege.

26 Plaintiff has not completed the investigation of the facts relating to this case, has
27 not completed discovery of this action, and has not completed preparation for trial. The
28 following answers are given without prejudice to the production of subsequent

1 discovered facts or evidence, or the presentation of facts or theories resulting from
2 subsequently discovered evidence, reevaluation of the existing evidence or evaluation
3 of existing evidence in light of newly-discovered evidence.

4

5

RESPONSES

REQUEST FOR PRODUCTION NO. 18.

8 All DOCUMENTS that RELATE OR REFER TO any monies you have ever received
9 in connection with the SUBJECT PHOTOGRAPH.

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RESPONSE:

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Objection. Overbroad and unduly burdensome. Further objection: This Request seeks documents protected by Plaintiff's right to privacy. Not relevant, nor likely to lead to the discovery of admissible evidence. Subject to and without waiving this objection, Plaintiff responds: The SUBJECT PHOTOGRAPH was widely displayed all over the world from 1994-2010 in publicity and promotional materials for the group Run DMC as well as in publicity and promotional materials for Plaintiff's book *Fuck You Heroes*; *Glen E. Friedman Photographs 1976-1991*, and in exhibitions of Plaintiff's work. The SUBJECT PHOTOGRAPH appeared in the book, *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*, Burning Flags Press, 1994. Plaintiff received monies for sales of this book, however, it is impossible to determine which monies are directly attributable to the SUBJECT PHOTOGRAPH.

SUPPLEMENTAL RESPONSE:

1 Plaintiff incorporates by reference all prior objections and responses and provides the
2 following supplemental response: Plaintiff produces the documents attached as Exhibit
3
4 A.

5 **REQUEST FOR PRODUCTION NO. 22.**

6 All DOCUMENTS that RELATE OR REFER TO each and every instance in which the
7 SUBJECT PHOTOGRAPH was published.

8
9 **RESPONSE:**

10 Objection. This Request fails to describe with reasonable particularity each item or
11 category of items to be inspected, is overbroad, and unduly burdensome. Subject to and
12 without waiving this objection, Plaintiff responds: The SUBJECT IMAGE was widely
13 displayed all over the world from 1994-2010 in publicity and promotional materials for
14 the group Run DMC as well as in publicity and promotional materials for Plaintiff's
15 book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions
16 of Plaintiff's work. Plaintiff further identifies Plaintiff's book *Fuck You Heroes; Glen*
17 *E. Friedman Photographs 1976-1991* which is equally available to propounding party.
18
19

20 **SUPPLEMENTAL RESPONSE:**

21 Plaintiff incorporates by reference all prior objections and responses and provides the
22 following supplemental response: Plaintiff produces the documents attached as Exhibit
23
24 A.
25
26
27
28

1 **REQUEST FOR PRODUCTION NO. 23.**

2 All DOCUMENTS that constitute a publishing of the SUBJECT PHOTOGRAPH.

3

4 **RESPONSE:**

5 Objection. Vague and ambiguous so as to be unintelligible. Further objection. This
6 Request fails to describe with reasonable particularity each item or category of items to
7 be inspected, is overbroad, and unduly burdensome. Subject to and without waiving
8 this objection, Plaintiff responds: The SUBJECT IMAGE was widely displayed all
9 over the world from 1994-2010 in publicity and promotional materials for the group
10 Run DMC as well as in publicity and promotional materials for Plaintiff's book *Fuck*
11 *You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions of
12 Plaintiff's work. Plaintiff further identifies Plaintiff's book *Fuck You Heroes; Glen E.*
13 *Friedman Photographs 1976-1991* which is equally available to propounding party.
14

15

16 **SUPPLEMENTAL RESPONSE:**

17

18 Plaintiff incorporates by reference all prior objections and responses and provides the
19 following supplemental response: Plaintiff produces the documents attached as Exhibit
20

21 A.

22

23 **REQUEST FOR PRODUCTION NO. 24.**

24

25 All DOCUMENTS that constitute RELATE OR REFER TO each and every publishing
26 of the SUBJECT PHOTOGRAPH.

27

28 **RESPONSE:**

1 Objection. Vague and ambiguous so as to be unintelligible. Further Objections: This
2 Request fails to describe with reasonable particularity each item or category of items to
3 be inspected, is overbroad, and unduly burdensome. Subject to and without waiving
4 this objection, Plaintiff responds: The SUBJECT IMAGE was widely displayed all
5 over the world from 1994-2010 in publicity and promotional materials for the group
6 Run DMC as well as in publicity and promotional materials for Plaintiff's book *Fuck*
7 *You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions of
8 Plaintiff's work. Plaintiff further identifies Plaintiff's book *Fuck You Heroes; Glen E.*
9 *Friedman Photographs 1976-1991* which is equally available to propounding party.
10
11

12 **SUPPLEMENTAL RESPONSE:**
13

14 Plaintiff incorporates by reference all prior objections and responses and provides the
15 following supplemental response: Plaintiff produces the documents attached as Exhibit
16
17 A.
18

19 **REQUEST FOR PRODUCTION NO. 25.**
20

21 All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken to
22 generate monies with respect to the SUBJECT photograph.
23

24 **RESPONSE:**
25

26 Objection. Vague and ambiguous as to the phrase "efforts YOU have taken to generate
27 monies." Further objection; overbroad and unduly burdensome. Subject to and without
28 waiving this objection, Plaintiff responds: The SUBJECT IMAGE was widely

1 displayed all over the world from 1994-2010 in publicity and promotional materials for
2 the group Run DMC as well as in publicity and promotional materials for Plaintiff's
3 book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*, and in exhibitions
4 of Plaintiff's work. The SUBJECT PHOTOGRAPH appeared in the book, *Fuck You*
5 *Heroes; Glen E. Friedman Photographs 1976-1991*, Burning Flags Press, 1994.
6

7 Plaintiff received monies for sales of this book, however, it is impossible to determine
8 which monies are directly attributable to the SUBJECT PHOTOGRAPH.
9

10 **SUPPLEMENTAL RESPONSE:**

11 Plaintiff incorporates by reference all prior objections and responses and provides the
12 following supplemental response: Plaintiff produces the documents attached as Exhibit
13

14 A.

15 **REQUEST FOR PRODUCTION NO. 26.**

16 All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken to
17 license the SUBJECT PHOTOGRAPH.
18

19 **RESPONSE:**

20 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
21 reasonable particularity each item or category of items to be inspected is overbroad,
22 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
23 relevant to any claim or defense in this matter, to the extent it seeks documents that did
24 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
25
26
27
28

1 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
2 publicity and promotional materials for the group Run DMC as well as in publicity and
3 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
4 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
5 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
6 which is equally available to propounding party.

7
8
9 **SUPPLEMENTAL RESPONSE:**

10 Plaintiff incorporates by reference all prior objections and responses and provides the
11 following supplemental response: Plaintiff produces the documents attached as Exhibit
12
13 A.
14

15 **REQUEST FOR PRODUCTION NO. 27.**

16 All DOCUMENTS that memorialize, RELATE OR REFER TO any discussions YOU
17 had in an effort to license the SUBJECT PHOTOGRAPH.

18
19 **RESPONSE:**

20 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
21 reasonable particularity each item or category of items to be inspected is overbroad,
22 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
23 relevant to any claim or defense in this matter, to the extent it seeks documents that did
24 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
25
26 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
27
28

1 publicity and promotional materials for the group Run DMC as well as in publicity and
2 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
3 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
4 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
5 which is equally available to propounding party.
6
7

8 **SUPPLEMENTAL RESPONSE:**

9 Plaintiff incorporates by reference all prior objections and responses and provides the
10 following supplemental response: Plaintiff produces the documents attached as Exhibit
11
12 A.

13 **REQUEST FOR PRODUCTION NO. 28.**

14 All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken to sell
15 any lithographs and/or reproductions the SUBJECT PHOTOGRAPH.
16
17

18 **RESPONSE:**

19 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
20 reasonable particularity each item or category of items to be inspected is overbroad,
21 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
22 relevant to any claim or defense in this matter, to the extent it seeks documents that did
23 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
24
25

26 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
27 publicity and promotional materials for the group Run DMC as well as in publicity and
28

1 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
2 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
3 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
4 which is equally available to propounding party.

5
6 **SUPPLEMENTAL RESPONSE:**
7

8 Plaintiff incorporates by reference all prior objections and responses and provides the
9 following supplemental response: Plaintiff produces the documents attached as Exhibit
10
11 A.

12 **REQUEST FOR PRODUCTION NO. 29.**
13

14 All DOCUMENTS that memorialize, RELATE OR REFER TO any discussions YOU
15 had in an effort to sell any lithographs and/or reproductions of the SUBJECT
16 PHOTOGRAPH.
17

18 **RESPONSE:**
19

Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
reasonable particularity each item or category of items to be inspected is overbroad,
unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
relevant to any claim or defense in this matter, to the extent it seeks documents that did
not result in a license. Subject to and without waiving this objection, Plaintiff responds:
The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
publicity and promotional materials for the group Run DMC as well as in publicity and

1 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
2 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
3 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
4 which is equally available to propounding party.

5
6 **SUPPLEMENTAL RESPONSE:**
7

8 Plaintiff incorporates by reference all prior objections and responses and provides the
9 following supplemental response: Plaintiff produces the documents attached as Exhibit
10 A.
11

12 **REQUEST FOR PRODUCTION NO. 30.**
13

14 All DOCUMENTS that RELATE OR REFER TO any efforts YOU have taken to sell
15 any products that incorporate the SUBJECT PHOTOGRAPH including, but not limited
16 to, any books, apparel and/or other merchandise.
17

18 **RESPONSE:**
19

20 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
21 reasonable particularity each item or category of items to be inspected is overbroad,
22 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
23 relevant to any claim or defense in this matter, to the extent it seeks documents that did
24 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
25 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
26 publicity and promotional materials for the group Run DMC as well as in publicity and
27
28

1 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
2 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
3 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
4 which is equally available to propounding party.

5

6 **SUPPLEMENTAL RESPONSE:**

7 Plaintiff incorporates by reference all prior objections and responses and provides the
8 following supplemental response: Plaintiff produces the documents attached as Exhibit
9
10 A.

11

12 **REQUEST FOR PRODUCTION NO. 31.**

13 All DOCUMENTS that memorialize, RELATE OR REFER TO any discussions YOU
14
15 had in an effort to sell any products that incorporate the SUBJECT PHOTOGRAPH
16 including, but not limited to, any books, apparel and/or other merchandise.

17

18 **RESPONSE:**

19 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
20 reasonable particularity each item or category of items to be inspected is overbroad,
21 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
22 relevant to any claim or defense in this matter, to the extent it seeks documents that did
23 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
24
25 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
26 publicity and promotional materials for the group Run DMC as well as in publicity and
27
28

1 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
2 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
3 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
4 which is equally available to propounding party.

5
6 **SUPPLEMENTAL RESPONSE:**
7

8 Plaintiff incorporates by reference all prior objections and responses and provides the
9 following supplemental response: Plaintiff produces the documents attached as Exhibit
10
11 A.

12 **REQUEST FOR PRODUCTION NO. 32.**
13

14 All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU received
15 for licensing the SUBJECT PHOTOGRAPH.

16 **RESPONSE:**
17

18 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
19 reasonable particularity each item or category of items to be inspected is overbroad,
20 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
21 relevant to any claim or defense in this matter, to the extent it seeks documents that did
22 not result in a license. Subject to and without waiving this objection, Plaintiff responds:

23 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
24 publicity and promotional materials for the group Run DMC as well as in publicity and
25 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
26
27

1 Photographs 1976-1991, and in exhibitions of Plaintiff's work. Plaintiff received
2 monies for sales of this book, however, it is impossible to determine which monies are
3 directly attributable to the SUBJECT PHOTOGRAPH.

4

5 **SUPPLEMENTAL RESPONSE:**

6

7 Plaintiff incorporates by reference all prior objections and responses and provides the
8 following supplemental response: Plaintiff produces the documents attached as Exhibit
9

10 A.

11

12 **REQUEST FOR PRODUCTION NO. 33.**

13 All DOCUMENTS that constitute, evidence, RELATE OR REFER TO any licensing
14 agreement that in any way RELATES OR REFERS TO the SUBJECT
15 PHOTOGRAPH.

16

17 **RESPONSE:**

18 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
19 reasonable particularity each item or category of items to be inspected is overbroad,
20 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
21 relevant to any claim or defense in this matter, to the extent it seeks documents that did
22 not result in a license. Subject to and without waiving this objection, Plaintiff responds:

23

24 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
25 publicity and promotional materials for the group Run DMC as well as in publicity and
26 promotional materials for Plaintiff's book *Fuck You Heroes ; Glen E. Friedman*

27

28

1 *Photographs 1976-1991*, which is equally available to propounding party, and in
2 exhibitions of Plaintiff's work.
3

4 **SUPPLEMENTAL RESPONSE:**

5 Plaintiff incorporates by reference all prior objections and responses and provides the
6 following supplemental response: Plaintiff produces the documents attached as Exhibit
7

8 A.

9 **REQUEST FOR PRODUCTION NO. 34.**

10 All DOCUMENTS that constitute, evidence, RELATE OR REFER TO the termination
11 of any licensing agreement that in any way RELATES OR REFERS TO the SUBJECT
12 PHOTOGRAPH.
13

14 **RESPONSE:**

15 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
16 reasonable particularity each item or category of items to be inspected is overbroad,
17 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
18 relevant to any claim or defense in this matter, to the extent it seeks documents that did
19 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
20 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
21 publicity and promotional materials for the group Run DMC as well as in publicity and
22 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
23
24
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1 *Photographs 1976-1991*, which is equally available to propounding party, and in
2 exhibitions of Plaintiff's work.
3

4 **SUPPLEMENTAL RESPONSE:**

5 Plaintiff incorporates by reference all prior objections and responses and provides the
6 following supplemental response: Plaintiff produces the documents attached as Exhibit
7

8 A.

9 **REQUEST FOR PRODUCTION NO. 35.**

10 All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU received
11 for selling any lithographs or reproductions of the SUBJECT PHOTOGRAPH.
12

13 **RESPONSE:**

14 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
15 reasonable particularity each item or category of items to be inspected is overbroad,
16 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
17 relevant to any claim or defense in this matter, to the extent it seeks documents that did
18 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
19

20 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
21 publicity and promotional materials for the group Run DMC as well as in publicity and
22 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
23
24

25 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further

26
27

28

1 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
2 which is equally available to propounding party.
3

4 **SUPPLEMENTAL RESPONSE:**

5 Plaintiff incorporates by reference all prior objections and responses and provides the
6 following supplemental response: Plaintiff produces the documents attached as Exhibit
7

8 A.

9 **REQUEST FOR PRODUCTION NO. 36.**

10 All DOCUMENTS that RELATE OR REFER TO each and every instance in which a
11
12 lithograph and/or reproduction of the SUBJECT PHOTOGRAPH was sold.

13 **RESPONSE:**

14 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
15 reasonable particularity each item or category of items to be inspected is overbroad,
16 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
17 relevant to any claim or defense in this matter, to the extent it seeks documents that did
18 not result in a license. Subject to and without waiving this objection, Plaintiff responds:

22 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
23 publicity and promotional materials for the group Run DMC as well as in publicity and
24 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
25
26 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further

27
28

1 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
2 which is equally available to propounding party.
3

4 **SUPPLEMENTAL RESPONSE:**

5 Plaintiff incorporates by reference all prior objections and responses and provides the
6 following supplemental response: Plaintiff produces the documents attached as Exhibit
7

8 A.

9 **REQUEST FOR PRODUCTION NO. 37.**

10 All DOCUMENTS that evidence, RELATE OR REFER TO any monies YOU received
11 for the sale of any products that incorporate the SUBJECT PHOTOGRAPH including,
12 but not limited to, any books, apparel and/or other merchandise.
13

14 **RESPONSE:**

15 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
16 reasonable particularity each item or category of items to be inspected is overbroad,
17 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
18 relevant to any claim or defense in this matter, to the extent it seeks documents that did
19 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
20

21 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
22 publicity and promotional materials for the group Run DMC as well as in publicity and
23 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
24 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
25

26

1 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
2 which is equally available to propounding party. Plaintiff received monies for sales of
3 this book, however, it is impossible to determine which monies are directly attributable
4 to the SUBJECT PHOTOGRAPH.

5 **SUPPLEMENTAL RESPONSE:**

6 Plaintiff incorporates by reference all prior objections and responses and provides the
7 following supplemental response: Plaintiff produces the documents attached as Exhibit
8 A.

9 **REQUEST FOR PRODUCTION NO. 38.**

10 All DOCUMENTS that RELATE OR REFER TO each and every sale of any products
11 that incorporate the SUBJECT PHOTOGRAPH including, but not limited to, any
12 books, apparel and/or other merchandise.

13 **RESPONSE:**

14 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
15 reasonable particularity each item or category of items to be inspected is overbroad,
16 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
17 relevant to any claim or defense in this matter, to the extent it seeks documents that did
18 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
19 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
20 publicity and promotional materials for the group Run DMC as well as in publicity and
21

1 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
2 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
3 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
4 which is equally available to propounding party. Plaintiff received monies for sales of
5 this book, however, it is impossible to determine which monies are directly attributable
6 to the SUBJECT PHOTOGRAPH.

7

8 **SUPPLEMENTAL RESPONSE:**

9

10 Plaintiff incorporates by reference all prior objections and responses and provides the
11 following supplemental response: Plaintiff produces the documents attached as Exhibit
12 A.

13

14 **REQUEST FOR PRODUCTION NO. 39.**

15

16 All DOCUMENTS that RELATE OR REFER TO each and every instance in which
17 YOU received monies with respect to the SUBJECT PHOTOGRAPH.

18

19 **RESPONSE:**

20 Objection. Vague and ambiguous so as to be unintelligible, fails to describe with
21 reasonable particularity each item or category of items to be inspected is overbroad,
22 unduly burdensome, invades Plaintiff's right to privacy and seeks documents not
23 relevant to any claim or defense in this matter, to the extent it seeks documents that did
24 not result in a license. Subject to and without waiving this objection, Plaintiff responds:
25

26 The SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
27

1 publicity and promotional materials for the group Run DMC as well as in publicity and
2 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
3 *Photographs 1976-1991*, and in exhibitions of Plaintiff's work. Plaintiff further
4 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
5 which is equally available to propounding party. Plaintiff received monies for sales of
6 this book, however, it is impossible to determine which monies are directly attributable
7 to the SUBJECT PHOTOGRAPH.

10 **SUPPLEMENTAL RESPONSE:**

12 Plaintiff incorporates by reference all prior objections and responses and provides the
13 following supplemental response: Plaintiff produces the documents attached as Exhibit
14 A.

16 **REQUEST FOR PRODUCTION NO. 40.**

18 All DOCUMENTS that RELATE OR REFER TO the inclusion or omission of
19 copyright notice with respect to the SUBJECT PHOTOGRAPH in any medium.

20 **RESPONSE:**

22 Objection: This Request seeks documents that are not relevant to any claim or defense
23 in this matter. Subject to and without waiving this objection, Plaintiff responds: The
24 SUBJECT IMAGE was widely displayed all over the world from 1994-2010 in
25 publicity and promotional materials for the group Run DMC as well as in publicity and
26 promotional materials for Plaintiff's book *Fuck You Heroes; Glen E. Friedman*
28

1 Photographs 1976-1991, and in exhibitions of Plaintiff's work. Plaintiff further
2 identifies Plaintiff's book *Fuck You Heroes; Glen E. Friedman Photographs 1976-1991*
3 which is equally available to propounding party. Plaintiff received monies for sales of
4 this book, however, it is impossible to determine which monies are directly attributable
5 to the SUBJECT PHOTOGRAPH.
6
7

8 **SUPPLEMENTAL RESPONSE:**

9 Plaintiff incorporates by reference all prior objections and responses and provides the
10 following supplemental response: Plaintiff produces the documents attached as Exhibit
11
12 A.

13 **REQUEST FOR PRODUCTION NO. 44.**

14 All DOCUMENTS that RELATE OR REFER TO any infringement related to the
15 SUBJECT PHOTOGRAPH not perpetrated by Defendant and Counter-Claimant
16
17 Thierry Guetta.

18 **RESPONSE:**

19 Objection: This Request seeks documents that are not relevant to any claim or defense
20 in this action.

21 **SUPPLEMENTAL RESPONSE:**

22 Plaintiff incorporates by reference all prior objections and responses and provides the
23 following supplemental response: Plaintiff has not filed any claims of infringement as
24 against any persons and/or entities, other than Defendant herein.
25
26
27
28

1

2

REQUEST FOR PRODUCTION NO. 45.

3

4

5

All press releases, transcripts of press conferences and other DOCUMENTS containing,
or referring to, statements made by plaintiffs concerning this suit.

6

7

RESPONSE:

8

9

Plaintiff identifies the article located at:

10

11

[http://thumped.com/interviews/photographers/glen-e-friedman-let-the-kids-shoot-them-](http://thumped.com/interviews/photographers/glen-e-friedman-let-the-kids-shoot-them-now.html)
now.html

12

13

Dated: November 19, 2010

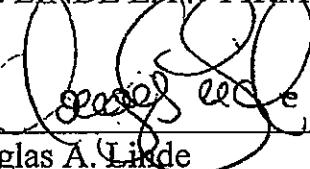
THE LINDE LAW FIRM

14

15

By:

16


Douglas A. Linde

17

Erica L. Allen

18

Attorneys for Plaintiff
GLEN E. FRIEDMAN

19

20

21

22

23

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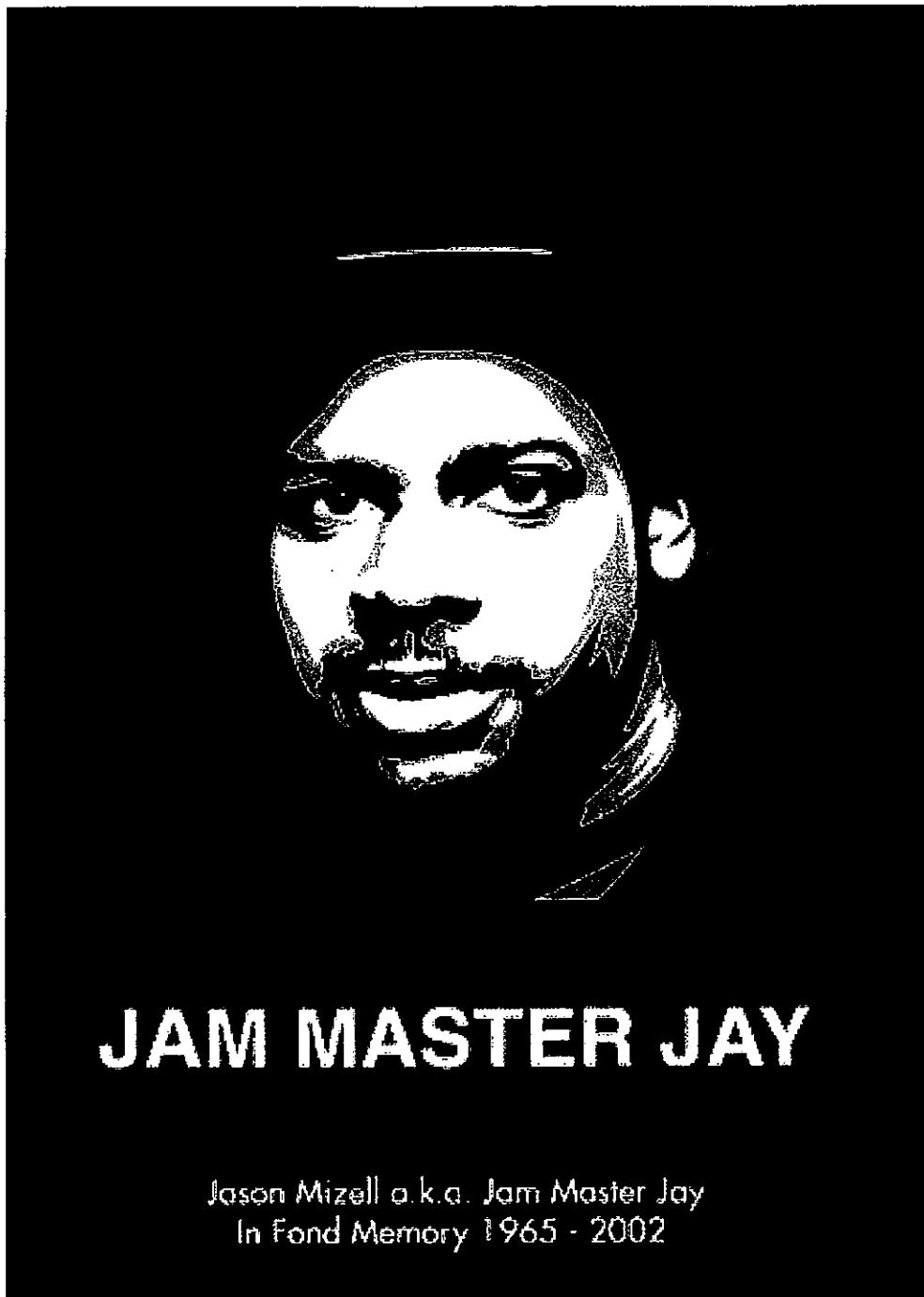
25

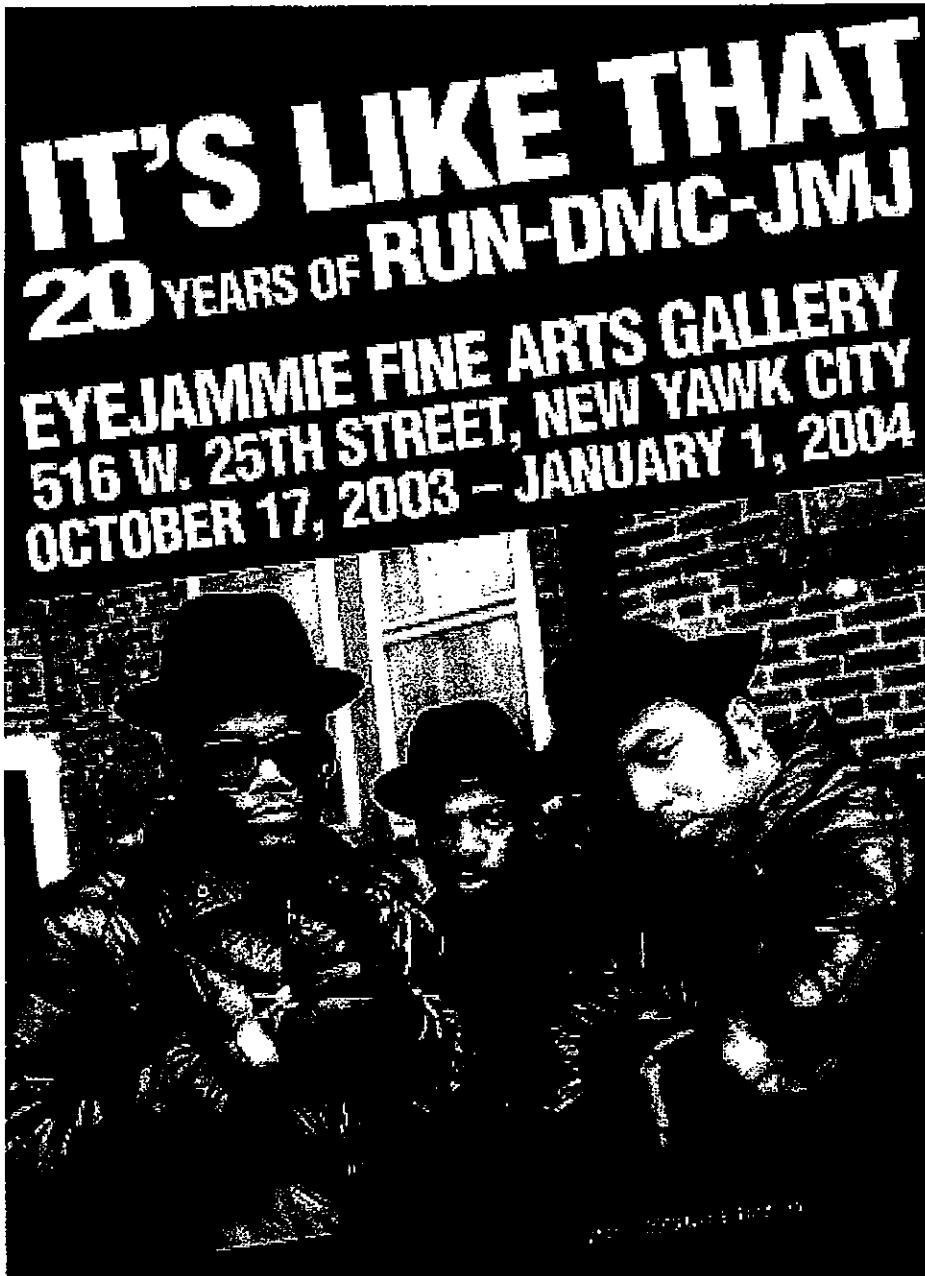
26

27

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EXHIBIT A









PROOF OF SERVICE
(FRCP 5)

I am employed in the county of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 9000 Sunset Boulevard, Ste. 1025, Los Angeles, CA 90069.

On November 22, 2010 I served PLAINTIFF'S RESPONSE TO REQUEST FOR PRODUCTION, SET ONE on the interested parties to this action by the following means:

8 X by placing _____ the original _____ a true copy enclosed in
9 a sealed envelope(s) addressed as stated on the attached Service
List.

10 X BY MAIL. I deposited such envelope(s) in the mail in Los
11 Angeles, California. The envelope(s) was mailed with postage
thereon fully prepaid.

12 _____ BY PERSONAL SERVICE. I caused to be delivered such
envelope(s) by hand to the addressee(s) stated on the attached
13 Service List.

14 **BY FACSIMILE.** I sent by facsimile a copy of the above-
described document to the interested parties identified on the
15 attached Service List.

16 **BY E-MAIL.** I sent by electronic mail a .pdf copy of the
17 fully executed above-described document to the interested parties
identified on the attached Service List.

18 Executed on November 22, 2010 in Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

21 | Jeffrey T. Allen

Name _____


Signature

SERVICE LIST

Alan S. Gutman
John Juenger
LAW OFFICES OF ALAN S. GUTMAN
9401 Wilshire Blvd., Ste. 575
Beverly Hills, CA 90212

LAW OFFICES OF
ALAN S. GUTMAN
9401 WILSHIRE BOULEVARD, SUITE 575
BEVERLY HILLS, CALIFORNIA 90212-2918
TELEPHONE: 310-385-0700
FACSIMILE: 310-385-0710

jjuenger@gutmanlaw.com

www.gutmanlaw.com

December 8, 2010

Via Facsimile and U.S. Mail

Douglas A. Linde, Esq.
Erica Gonzales, Esq.
Aren Kavcioglu, Esq.
THE LINDE LAW FIRM
9000 Sunset Blvd., Suite 1025
Los Angeles, CA 90069

Re: Glen E. Friedman vs. Thierry Guetta aka Mr. Brainwash,
USDC, Central District of California, Case No. CV10-0014 DDP (JCx)

Dear Counsel:

This letter concerns Plaintiff's Second Supplemental Responses to First Set of Requests for Admissions and Interrogatories and Plaintiff's Supplemental Responses to First Set of Requests for Production of Documents.

As explained in my October 6, 2010 letter and during my in person meeting with Erica Gonzales and Aren Kavcioglu, we are entitled to discover the value of the subject photograph. Therefore, we have a right to know what efforts Plaintiff took to market the photograph and his profits from his efforts, including the sale of his book (or any other items) that incorporated the photograph, information that was requested in Interrogatory Nos. 6 through 9. In response, I was told that Plaintiff would provide supplemental responses indicating that he suffered no lost profits from Defendant's conduct other than hypothetical lost royalty payments he may have received had he licensed the photograph to Defendant. However, the second supplemental responses to Interrogatory Nos. 6 through 9 simply reincorporate the previous objections and responses and make reference to documents attached as Exhibit A to the Supplemental Responses to Requests for Production of Documents, together with an indication that "Plaintiff is not in possession of further documents or information with respect to these matters." First of all, this last statement is obviously untrue, as Plaintiff has an understanding as to his efforts to market the photograph and his profits from the sale of his book. Additionally, we believe Plaintiff is aware as to how much he was paid in connection with the gallery showing and the sale of T-shirts referenced in the documents attached to the document request responses. Again, if Plaintiff alleges that he suffered damages from Defendant's use of the Photograph, we are entitled to all information relating to Plaintiff's marketing efforts and

GUTMAN LAW

Doug Linde, Esq.
Erica Gonzales, Esq.
Aren Kavcioglu, Esq.
The Linde Law Firm
December 8, 2010
Page 2

profits from any uses of the photograph, even if Plaintiff contends "it is impossible to determine which monies are directly attributable to the SUBJECT PHOTOGRAPH." Please provide further supplemental responses either stating that Plaintiff has not suffered any damages other than royalties he may have received from licensing the photograph to Defendant, as was previously indicated, or provide substantive responses to all of the Interrogatory Nos. 6 through 9 and produce all documents relating thereto.

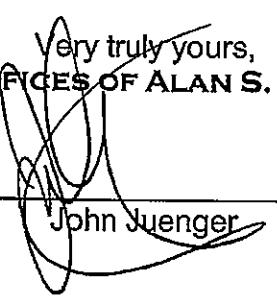
With respect to all of the Responses to Requests for Production of Documents, Plaintiff still fails to comply with the provisions of FRCP 34, which require a responding party to either state which categories it will comply with or to state the reason why responding party is unable to comply with the request after engaging in a diligent search and reasonable inquiry. Please provide supplemental responses that conform the Code's requirements for each of the Requests for Production of Documents (including those not included in the initial supplemental responses) and produce all responsive documents.

Please let us know as soon as possible whether Plaintiff intends to provide substantive supplemental responses to all the discovery requests referenced above and to produce all responsive documents. If we do not receive supplemental responses by Monday, December 13, 2010, we shall proceed with our motion to compel.

The foregoing is without prejudice to any and all rights, remedies, claims, actions and defenses, all of which are expressly reserved.

Very truly yours,
LAW OFFICES OF ALAN S. GUTMAN

By: _____


John Juenger

JJ:tmf
GUETTA LETTER 08 DEC 2010 LINDE

John Juenger

From: Doug Linde <dal@lindelaw.net>
Sent: Tuesday, January 04, 2011 12:31 PM
To: John Juenger; Aren Kavcioglu; Erica Gonzales
Subject: RE: Friedman v. Guetta: Motions to Compel

Proposals 1, 2b, 3 and 4 are acceptable. 4 can be handled through a supplemental brief, and we reserve the right to dispute the entitlement and amount of fees.

With respect to our Motion to Compel evidence of direct profits, let us consider it, including the case citations in your e-mail. The main issues I am concerned about are (1) the Court would likely have to agree to any such proposal, and, separate and apart from that, (2) (trying to use the most neutral language possible) the records produced by your client do not seem to have been fastidiously maintained and we do not want to prejudice our clients discovery rights to the extent we need further discovery.

Finally, your accusations of bad faith are not warranted, necessary, or deserving of a further response.

--
Doug

From: John Juenger [mailto:jjuenger@gutmanlaw.com]
Sent: Tuesday, January 04, 2011 11:33 AM
To: Doug Linde; Aren Kavcioglu; Erica Gonzales
Subject: Friedman v. Guetta: Motions to Compel

Counsel:

After having considered your e-mails regarding the Motions to Compel, we offer the following proposals:

1. Plaintiff stipulates that he suffered no loss from Defendant's use of the subject photograph other than the loss of a potential royalty payment he would have received had he licensed it to Defendant;
2. EITHER Plaintiff pays for the attorney's fees Defendant already incurred in bringing his Motion to Compel (\$1,300) OR Plaintiff withdraws the request for sanctions from Plaintiff's Motion to Compel;
3. Defendant does not file his Motion to Compel; and
4. Defendant adds \$650 to the sanctions request in his Motion to Quash for time spent traveling to and attending the hearing (this time was only included in Defendant's Motion to Compel scheduled to be heard the same day).

We feel this resolution is fair in light of the fact that there is really no dispute as to the issues in Defendant's Motion to Compel, but Plaintiff did not make good on the offer to concede he suffered no damages (other than the lost hypothetical royalty) until after the Motion was filed (and after having completely ignored my December 8 letter). For these reasons, we believe the court will grant the sanctions request.

Additionally, we believe that your Motion to Compel evidence of direct profits is premature as Plaintiff has not demonstrated copyright infringement. Firstly, it should be noted that indirect profits awards "are relatively rare." Mackie v. Rieser, 296 F.3d 909, 913. Also, damages and profit information is discoverable through an accounting